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1 Q You said Kevin gave you help with this?

2 A Kevin Groff.

3 Q Groff.

4 A Yeah.

5 Q Did Mr. Groff explain to you that you needed to provide

6 notice to both Local 840 and NECA --

7 A Yeah. I believe we did.

8 Q Okay. So, it's correct that on April 12th, you sent a

9 letter to Mr. Davis terminating that letter of assent, as well

10 as you sent a letter to --

11 A Finger Lakes NECA.

12 Q -- Finger Lakes NECA, to whom it may concern, correct?

13 A Yeah.

14 (Pause.)

15 MR. TREVETT: This is already in evidence.

16 MS. SELLERS: Pardon?

17 MR. TREVETT: This is already in evidence, I think. You

18 know what? My apologies. No. My apologies. You're right.

19 MS. SELLERS: Yeah.

20 BY MS. SELLERS:

21 Q Mr. Colacino, I've shown you what's marked as General

22 Counsel's Exhibit 33. This is the letter that you signed and

23 was sent to Finger Lakes NECA in order to terminate your letter

24 of assent for Colacino Industries; is that correct?

25 A Yeah.

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1 existence at this point.

2 Q Even though Mr. Davis had told you, according to your own

3 testimony, that the other one still existed and according to

4 you, it just had been re-dated but it still existed.

5 A Yes. I believe so.

6 Q But, you didn't believe it existed any more.

7 A I think at that point, I had made the assumption that that

8 was a non-issue, that company was no longer -- you know, was

9 being used, was not in existence. It was only later that it

10 was brought to my attention through some of my employees that

11 the union still believed me to be signatory because that still

12 existed out there.

13 Q Okay.

14 A Hence, my follow-up letter that went out after this for

15 2.0.

16 Q Which employees brought it to -- Which employees brought

17 it to your attention that Newark Electric -- that the union

18 still considered you to be a signatory?

19 A Several. Tony Blondell. Scott Barra and Rick Bush.

20 Q When was that? Was that like April 13th or was it in June

21 when you finally sent the letter?

22 A Probably closer to June, but I can't recall exactly. I

23 just know that by their understanding, that was the union's --

24 the union was taking the position they still had a hold on my

25 company.

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1 Q Okay. And, it was dated April 12th, 2012?

2 A Yeah.

3 Q Okay. And, then, I'm showing you General Counsel's

4 Exhibit 12, those are the letters that you sent to Mr. Davis in

5 order to terminate the relationship -- the letter of assent for

6 Colacino Industries with Local 840, correct?

7 A It appears to be. Yes.

8 Q Okay. Now, April 12th, was that six months -- more than

9 six months after July 20th, 2011?

10 A Yes.

11 Q But, it was less than 12 months, correct?

12 A Yes.

13 Q Okay. And, the date you decided to terminate it states is

14 May 26th, 2012, correct?

15 A Yes.

16 Q And, that's 30 days -- more than 30 days notice by it

17 being sent on April 12th, correct?

18 A Yeah.

19 Q Okay. But, at this time, you only terminated the letter

20 of assent for Colacino Industries from July 20th. You didn't

21 terminate the letter of assent that states the employer name to

22 be Newark Electric that was originally signed in February 2011,

23 correct?

24 A It was the only one that I was aware of was still in

25 existence. It's the only one that I believed was still in

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1 Q When did you -- Do you recall when Rick Bush went to work

2 for you?

3 A Not specifically the date.

4 Q Okay.

5 A I can certainly find that out for you.

6 MS. SELLERS: That's okay. I offer --

7 MR. TREVETT: No objection.

8 MS. SELLERS: -- 33.

9 JUDGE CHU: Thirty-three is marked and entered.

10 MS. SELLERS: Thank you.

11 (General Counsel's GC-33 identified and received.)

12 BY MS. SELLERS:

13 Q So, then, on June 20th, you sent a letter to Mr. Davis to

14 terminate the Newark Electric 2.0 letter of assent, correct?

15 A Yeah.

16 MR. TREVETT: Is that an exhibit?

17 MS. SELLERS: Oh. It's General Counsel's Exhibit 13,

18 correct? On the bottom it says No. 13?

19 MR. TREVETT: Yes, it is. I'm sorry. I see what you're

20 doing.

21 BY MS. SELLERS:

22 Q Okay. And, when you say the letter of assent for Newark

23 Electric 2.0 you meant the one that was originally signed on

24 February 24th, 2011, correct?

25 A Yeah. But, it was brought to my attention by Tony

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1 Blondell was the primary person. Scott and Rick concurred that
 2 Mike had taken a position that I was still in the union, Newark
 3 Electric 2.0 --
 4 Q Okay. Hold on. Let me ask --
 5 A -- this was written --
 6 Q Let me ask the question first. Okay?
 7 A Yeah.
 8 Q Thanks. Okay. So, you sent this letter. Now, did you
 9 send at the same time a letter to NECA?
 10 A Yeah. I believe so.
 11 Q Okay. Are you able to produce that letter that you sent
 12 to NECA?
 13 A I'd have to check to see if that's something that -- Is
 14 that something that we had, or were we looking for that?
 15 MR. TREVETT: I will represent at this point, we had made
 16 a diligent search and we have not come up with such a letter in
 17 our files, pursuant to your subpoena.
 18 MS. SELLERS: Right. It was an item that was subpoenaed.
 19 MR. TREVETT: It was.
 20 BY MS. SELLERS:
 21 Q So, you believe that you sent a letter at that time to
 22 NECA as well.
 23 A Yeah. And, this was prepared by the same gentleman that
 24 did the prior one, Kevin Groff.
 25 Q Okay.

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1 Finger Lakes NECA and the local union, at least 30 days prior
 2 to the selected termination date. Okay.
 3 But, you just testified the termination date was -- that
 4 you had selected was June 29th.
 5 A If I understand this, we had to send a notice to terminate
 6 up to 12 months, but 30 days from that, it would be effective.
 7 So, if this was sent on June 29th, it should be effective July
 8 29th.
 9 Q It's General Counsel's 10. I apologize.
 10 MR. TREVETT: General Counsel's 10 pertains to Colacino
 11 Industries.
 12 MS. SELLERS: You're right. Sorry.
 13 MR. TREVETT: Don't you mean General Counsel's 6?
 14 MS. SELLERS: Six. Yes.
 15 MR. TREVETT: That's fine. I just want to make sure --
 16 THE WITNESS: It's the same verbiage.
 17 MS. SELLERS: It's the same verbiage. You're right. We
 18 should be looking at General Counsel's 6. Thank you, Mr.
 19 Trevett.
 20 THE WITNESS: I think when Kevin typed this, the effective
 21 date would have been July 29th.
 22 BY MS. SELLERS:
 23 Q Okay. So, you were trying to terminate it for July 29th.
 24 A Yeah.
 25 Q Okay. Which would have been your 30 days notice, correct?

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1 A So, I would assume that he did that. He understood the
 2 process the first time. I'm sure he would have done it. And,
 3 I haven't heard anything from NECA stating the contrary. We've
 4 had no filings with them at all.
 5 Q Okay. Now, you sent this on June 29th. At the time that
 6 you sent this, what did you believe to be the termination date
 7 for that letter of assent?
 8 A June 29th.
 9 Q You thought the letter of assent was going to terminate --
 10 What was the one year anniversary date for the letter of assent
 11 that you were trying to terminate in this letter?
 12 A I believe, July 20th.
 13 Q Okay. So, you believed July 20th. Okay.
 14 A Yeah.
 15 Q Now, did you understand under the terms listed in the
 16 letter of assent that you needed to give 30 days notice?
 17 A I can't really recall. I'd have to look at the letter of
 18 assent and reread it. As I understood it originally, it was --
 19 you had six -- you had to be in six months, but you had up to a
 20 year.
 21 Q If you look at Paragraph 2 it says, After the first
 22 hundred and 60 days, which you said, and within the first 12
 23 months and the effective date of this letter of assent, the
 24 undersigned employer may terminate the letter of assent and the
 25 collective bargaining agreement by giving written notice to

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1 A Yes. Yeah.
 2 Q Okay.
 3 JUDGE CHU: So, you believe that's just a typo?
 4 THE WITNESS: Yes.
 5 JUDGE CHU: On Exhibit 13?
 6 THE WITNESS: Yeah. He had it right on the previous
 7 termination letter. For Colacino Industries, he had the 30 day
 8 span in there properly. I think it was a typo on his part.
 9 BY MS. SELLERS:
 10 Q And, Mr. Colacino, General Counsel's 6, this letter of
 11 assent, you believe that to be binding on Newark Electric 2.0
 12 only, correct?
 13 A Correct. I had no authorization to sign for any other
 14 company, other than Colacino.
 15 Q And, that is not signed on behalf of Colacino Industries.
 16 A This one?
 17 Q Yes.
 18 A No.
 19 Q Okay. Now, if we look at General Counsel's Exhibit 6 and
 20 if we say that, as Mr. Davis testified, it was not re-dated, if
 21 we take Mr. Davis's testimony that it was never re-dated.
 22 Would your, General Counsel's Exhibit 30, June 29th letter have
 23 timely terminated you from that letter of assent?
 24 A Not by this date. No.
 25 Q Okay. Not by the February 24th date, you agree to that,

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1 correct?
 2 A Yes.
 3 Q So, the only way in your mind that it could have been
 4 timely submitted is if it had been re-dated to the July 20th,
 5 2011 date, correct?
 6 A Or if it was ineffective because you can't have two
 7 letters of assent C by a single owner.
 8 Q Okay. And, there's -- You already, I think, said this,
 9 but just so it's clear in my mind. There's no document, or
 10 email, or anything in writing that you have stating that it was
 11 re-dated, correct?
 12 A No.
 13 Q It's just the oral conversation.
 14 A Yes.
 15 Q Okay. Let's talk about Mr. Blondell.
 16 A Okay.
 17 Q Okay? Now, Mr. Blondell was originally terminated --
 18 Let's see. Mr. Blondell, according to General Counsel's
 19 Exhibit 21, was originally terminated by you on June 29th,
 20 2012; is that correct?
 21 A Yes.
 22 Q Okay. And, that termination was for sharing company
 23 information?
 24 A Yes.
 25 Q Okay. What company information did he share?

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1 A No.
 2 Q And, that was considered company information that you
 3 didn't want shared because?
 4 A Any business correspondence that our guys have privilege
 5 to is the sole property of my company and it can't be shared,
 6 they're all aware that we have business policies and a handbook
 7 that indicate that that's not to be shared, jobs, customers,
 8 payment statuses, any of that is not to be shared outside of
 9 our company. They're all aware of that.
 10 Q Now -- That's fair. Now, why on July -- June 30th did you
 11 hire Mr. Blondell back?
 12 A Tony had requested to talk with me. I think this letter
 13 was on a Friday. It probably went in with his pay on the 29th.
 14 I called him back that night and he asked if we could meet on
 15 Saturday morning, so he could explain the situation. I sat
 16 with him and he explained that it was not him that gathered the
 17 information. He knew of the information being in the hands of
 18 the IBEW, but he himself did not take it off my desk.
 19 And, in realizing that I had no way to definitively prove
 20 it one way or the other, I had felt I erred in judgment by
 21 letting him go without having facts. And, Tony is a good
 22 employee. He was -- He deserved me to reconsider that, so I
 23 did and I rescinded it and he was back in good standing on
 24 Monday morning.
 25 Q So, you know -- So, was there -- When you rescinded it,

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1 A Colacino Industries.
 2 Q And, how did you come to find out that he disclosed
 3 company information?
 4 A The exact mechanism, I -- I don't want to speculate. But,
 5 information had gotten back to me that the IBEW was aware of a
 6 list of workers that were scheduled to work on a project. It
 7 was a project for one of the banks in Rochester. We were doing
 8 ten or twelve, I want to say Marine Midland or HSBC bank
 9 branches. We had to do some off-hours work. And, I compiled a
 10 list of possible employees that could go on that job. And,
 11 somehow that list turned up in the hands of the IBEW and they
 12 were taking issue with it because some of them were not my
 13 employees, they were other employees -- of other companies,
 14 rather. And, it was told to me that Tony had taken that
 15 information off my desk and had given it to Mike Davis.
 16 Q Who told you that?
 17 A I believe Scott Barra.
 18 Q Okay.
 19 A And, Scott had -- Whether he had direct knowledge of it,
 20 or heard about it, hearsay, through other members of 840, I
 21 don't know.
 22 Q Did you talk to Tony about -- Mr. Blondell about whether
 23 that was true before you gave him this letter?
 24 A No.
 25 Q Okay.

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1 was there any consequence? Did you say, okay, I'm giving you a
 2 verbal warning, or any other thing instead, you just rescinded
 3 it as if it hadn't happened?
 4 A As if it hadn't happened. Yes.
 5 Q Okay. Would you have considered -- Was any of this left
 6 in his file to be considered for future issues with his
 7 employment?
 8 A No. It would never impact anything in the future with
 9 Tony. When I rescinded it, it's gone.
 10 Q It's clear.
 11 A But, I kept a copy in the file because if it ever came up
 12 that I terminated him, I had to have something to undo that
 13 termination, so we just put it in his file. But, it would
 14 never have come in to be considered on future discipline
 15 because it's as if it didn't happen.
 16 Q Okay. Now, Tony Blondell doesn't work for you any more,
 17 correct?
 18 A Correct.
 19 Q Was he a good employee, other than, you know, this one
 20 blip that you thought something and, then, it was nothing?
 21 A Yeah. I would consider him one of the better employees
 22 we've had.
 23 Q And, so, how did it come -- why did you lay him off if
 24 he's such a good employee?
 25 A In the period between the June 29th and when I had

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1 terminated Tony on the 20th, Tony came to me. He knew that I
2 had talked to my employees to see what their desire was as it
3 relates to the union because it was creating a lot of heartache
4 for us. There was a lot of dissension in the employees in that
5 none of them, with the exception of Tony, wanted to remain in
6 the union. And, I had had several employees leave citing they
7 didn't want any part of the union. So, I had lost some
8 employees.

9 Tony was aware of this. Tony was also in communication
10 with his brothers at 840 and he had come to me and he said,
11 what is your intention. And, I said, as it stands right now,
12 Tony, I'm going to probably going to have to terminate my
13 relationship with 840. And, he said, well, I'm too far in to
14 leave 840. He said, I you know, that means I'm not going to
15 be able to work here. And, I said, I understand, Tony and I
16 just don't know what else to do. He said, you're going to have
17 to lay me off. And, I said, why do I have to do anything, I
18 mean, if I'm a non-union contractor. And, he said, they're
19 laying for you. And, these are his exact words. You have to
20 lay me off by the 20th. If you don't, I'm telling you and he
21 was -- he wanted me to believe that he was looking out for my
22 best interests. And, he insisted that I lay him off in those
23 terms, for lack of work.

24 Q Okay.

25 A And, I said, but I don't have a lack of work. And, he

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1 BY MS. SELLERS:

2 Q I just want to show you one more document, General
3 Counsel's 34. Do you recognize this document at all?

4 A Yeah. It looks like one of our documents. I can't say I
5 specifically saw this one before.

6 Q Okay. And, what would this be for?

7 A It looks like some fixtures that we were going to use as
8 dows in our shop, both samole LED fixtures.

9 Q Okay. Would you have been filling this out, or would
10 Geneva Electric Supply had been --

11 A Geneva Electric.

12 Q Okay. And, they referred to you -- your company as
13 Colacino/Newark Electric?

14 A Yes.

15 MS. SELLERS: Okay. I offer General Counsel's 34.
16 I should state, this was receive pursuant to subpoena and the
17 receipt that's on the left was stapled onto the Geneva
18 Electrical Supply document on the right and to save paper, I
19 just photocopied them side by side.

20 MR. TREVETT: Can I just voir dire?

21 JUDGE CHU: Sure.

VOIR DIRE

22 BY MR. TREVETT:

23 Q Just, again, if you look at this document and particularly
24 look at the left side of the document, that would -- You know,

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1 said, but I'm telling you, you need to do this. So, Tony and
2 had a -- several conversations. I had hope -- Let me rephrase
3 that. My hope was that Mike and I would be able to find some
4 type of a relationship where we could have a project labor
5 agreement moving forward to retain Tony because he is a good
6 employee. I think he's an asset to the union and he was an
7 asset to us. So, it was with incredible regret to even write
8 that letter, but I did it on his insistence, because he
9 inferred and insinuated that the union was going to use that as
10 a tool against me if I didn't lay him off for lack of work.

11 Q Did you understand that Tony could get in trouble too if
12 he hadn't been laid off?

13 A I was so green in this whole relationship, I was so naive
14 to it all to be honest with you, no, I didn't. In hindsight, I
15 understand that if Tony had worked for a non-union contractor,
16 he would be the one in trouble, not me.

17 Q Okay. Did you understand that if Tony quit he could not
18 receive unemployment?

19 A No. I didn't even think of that, to be honest with you.
20 I've had -- I've had employees quit that did receive
21 unemployment, many times. Yeah. Yeah.

22 MS. SELLERS: Judge, can I have just two minutes to
23 confer?

24 JUDGE CHU: Take a five-minute break.

25 (Whereupon, a recess was taken.)

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1 we produced it during the subpoena, that's a document you
2 received in the ordinary course of business?

3 A Sure.

4 Q Does that seem to be a true and accurate business
5 transaction -- recollection of a business transaction that you
6 did?

7 A Yeah. I mean, it's got personal information on the
8 customer name, but the credit card number and all that
9 indicates to me that's Colacino Industries account that paid
10 for it.

11 Q Okay. I think we've established, none of the handwriting
12 is yours, it's all from --

13 A It's all from Geneva. Yes.

14 Q So, the invoice or whatever it is, is a Geneva Electrical
15 Supply document and the credit card information on the left
16 side is yours, Colacino Industries?

17 A Yes. 7866 is a Colacino Industries account.

18 MR. TREVETT: Okay. No objection.

19 JUDGE CHU: Fine. Thank you. That's marked and admitted.
20 (General Counsel's GC-34 identified and received.)

21 BY MS. SELLERS:

22 Q Going back to the signing of the letter of assent in
23 February 2011. Can you remind me who was present at that
24 signing?

25 A If it's the day I'm thinking of, Frank Mula, I don't know

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1 How you -- Maia. Clark Culver. My father. Mike Davis. Mike
 2 had mentioned there was a Tony, that would have been Tony
 3 DeFranco, but I don't remember Tony being there, but he could
 4 very well been.
 5 Q Okay.
 6 A I think that's it.
 7 C Why was your father there?
 8 A He was still an active part of my company. He's still an
 9 active person in my company.
 10 Q Okay.
 11 A And, this was more of a -- I use the term fanfare. There
 12 was a lot of fanfare. This has been a long time coming, six or
 13 seven years of conversations. So, we just went to dinner to
 14 kind of celebrate the new relationship.
 15 Q Had never signed a letter of assent with IBEW.
 16 A He just likes to eat.
 17 Q He just likes?
 18 A To eat.
 19 Q Okay. And, so, when you -- So, when you signed the letter
 20 of assent as Newark Electric, you were signing it, not your
 21 father and that was because you just didn't pay attention to
 22 what you were signing.
 23 A I'd never noticed the 2.0 not being on there. Again, this
 24 was -- We may have signed that in the shop and went out to
 25 dinner. They brought all these people in. Again, Mike had

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1 Q I'm showing you what's been marked as General Counsel's
 2 35A through C. These are the letters of assent you produced
 3 pursuant to subpoena. And, if you turn to Page 2, you'll
 4 notice that it says Newark Electric for the name of the firm
 5 and the date is November 9, 2010. If you turn to Exhibit 35B,
 6 you'll notice that the name of firm, this is a letter of assent
 7 A. The name of the firm is Newark Electric and the date is
 8 December 8, 2010. And, there's also a letter of assent C for
 9 December 2010, which is General Counsel's Exhibit 35C, and
 10 again, the firm listed is Newark Electric.
 11 So, that's just -- I'm not going to offer these in, but
 12 this is just confirmation of what I was saying that all the
 13 ones you produced do say Newark Electric, correct?
 14 A They do. Can I make a comment on these?
 15 Q Sure.
 16 A I notice on a lot of these earlier ones and this goes
 17 back, I think, to help substantiate what I'm saying. Mike and
 18 I had discussed about my desire if I was to sign to form a
 19 separate corporation to segregate that type of work. I noticed
 20 on those, none of these make reference to an employer
 21 identification number, nor do they have the addresses accurate.
 22 Some tend to refer to 140 Harrison Street, sometimes 130
 23 Harrison Street, neither of which are either company's address.
 24 So, I think that, you know, these are documents prepared
 25 in an effort to try and get me to, you know, come on board.

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1 presented me with these forms countless times before and I got
 2 to be honest, I never read through them with a high level of
 3 detail looking for, you know, doing error checking.
 4 Q Now, of all those times before they said Newark Electric,
 5 would you have been surprised by that?
 6 A No. I would say that probably -- some of them, probably a
 7 portion of them had Colacino Industries because his original
 8 intent was to organize --
 9 Q Okay.
 10 A -- and it was when I tried to -- when my hesitation was to
 11 do that and I formed a new company, hence Newark Electric 2.0,
 12 that's when I think that he would start filling them out that
 13 way.
 14 Q Now, when we issued -- When General Counsel issued the
 15 subpoena, we asked for all letters of assent. Would it
 16 surprise you to find out that all the ones you produced only
 17 say Newark Electric?
 18 A No. Probably not. Again, Mike would bring them --
 19 Virtually every time he came, he would have one with him. He
 20 didn't necessarily leave them all with me.
 21 Q Okay.
 22 A He would only leave them when he said, look, let me leave
 23 this with you and call me when you sign it and we would laugh
 24 and he'd go his way and I'd go mine.
 25 (Pause.)

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1 But, there is a lot of inaccuracies, not just the company name.
 2 (General Counsel's GC-35A through 35C identified.)
 3 Q Okay. But, on General Counsel's Exhibit 6, the letter of
 4 assent you signed on February 24th, 2011, he -- the name of the
 5 firm is Newark Electric, correct?
 6 A Yeah.
 7 Q The address is 126 Harrison Street, correct?
 8 A Yes.
 9 Q And, the employee identification number is not the
 10 employer identification number for Colacino Industries or
 11 Newark Electric 2.0, correct?
 12 A Correct.
 13 Q And, therefore, you believe it to be for Newark Electric,
 14 correct?
 15 A Yeah. I think so.
 16 MS. SELLERS: I'm done with this witness at this time.
 17 JUDGE CHU: What do you want to do with this exhibit?
 18 MR. CREVVETT: I would like -- Since he's testified from
 19 it, I think it should be in evidence.
 20 JUDGE CHU: Yeah.
 21 MS. SELLERS: Okay. All right. We're not offering it,
 22 but I don't know --
 23 JUDGE CHU: The reader of the transcript and not see the
 24 document that this witness has testifying to.
 25 MS. SELLERS: It's usually in the transcript, it's just

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1 no. an admitted exhibit. That's how it's usually done by them,
 2 but I understand you're wanting it. But, General Counsel's not
 3 offering it.
 4 MR. TREVETT: Well, I would hate to renumber it.
 5 Respondent Exhibit 2, but -- I mean, I think it should be in
 6 the record, is my point.
 7 JUDGE CHU: You may not need it, Ms. Sellers, but
 8 Respondent counsel may need it.
 9 MS. SELLERS: Okay.
 10 JUDGE CHU: I'll remark it as Respondent Exhibit 2. All
 11 right.
 12 (Respondent's R-2 identified and received.)
 13 JUDGE CHU: There's one other item, Ms. Sellers, which was
 14 General Counsel Exhibit 18, which we reserved until the time
 15 this witness was going to take the stand.
 16 MS. SELLERS: Right. Thank you.
 17 JUDGE CHU: That exhibit has not been admitted as yet.
 18 For the record, it's a letter to this witness from the union's
 19 attorney, Donald Oliver.
 20 BY MS. SELLERS:
 21 Q Mr. Colacino, did you receive this letter we've marked as
 22 General Counsel's Exhibit 18?
 23 A I do remember getting some correspondence from this law
 24 firm and forwarding it on to my attorney.
 25 Q Okay.

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N
 2 (2:10 p.m.)
 3 JUDGE CHU: On the record after a short recess for lunch,
 4 ready to continue examination of Mr. Colacino. I just remind
 5 you you're still under oath. All right.
 6 Mr. Trevett, your witness.
 7 Just so that we have an understanding, this witness is
 8 also Respondent's witness on your case, but in order to save
 9 time, I don't want recall him, you know, on Respondent's direct
 10 case, so basically you're not limited on so-called cross-
 11 examination to what was raised on direct by the Acting General
 12 Counsel. All right?
 13 MS. SELLERS: Yes.
 14 JUDGE CHU: Thank you.
 15 MR. TREVETT: Thank you, Judge.
 16 CROSS-EXAMINATION
 17 BY MR. TREVETT:
 18 Q Okay. Mr. Colacino, start back with the beginning of your
 19 company. I think you said it was formed in about 2000; is that
 20 correct?
 21 A Correct.
 22 Q And, you formed that company yourself?
 23 A Yes.
 24 Q I'm showing you what's been marked as Respondent Exhibit
 25 3. Do you recognize that type of information?

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1 A Again, I can't speak to -- I think I received several
 2 documents from them, from Blitman & King. But, yeah, I do -- I
 3 think I do recall this because of the misspelling of my last
 4 name.
 5 MS. SELLERS: Fair enough. General Counsel offers Exhibit
 6 18.
 7 MR. TREVETT: With that testimony, no objection.
 8 JUDGE CHU: All right. Foundation has been laid by this
 9 witness. GC-18 is marked and admitted into the record.
 10 (General Counsel's GC-18 identified and received.)
 11 JUDGE CHU: Let's go off the record at this time.
 12 (Whereupon, the luncheon recess was taken.)
 13

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1 A Yes.
 2 Q How many pages do you have?
 3 A Five.
 4 Q Five? Okay. Good.
 5 Okay. What is that?
 6 A It's the certificate of incorporation for Colacino
 7 Industries Incorporated.
 8 Q Is this a business document that you keep in the ordinary
 9 course of business?
 10 A Yes.
 11 Q And, does it accurately reflect the formation and
 12 incorporation of your company Colacino Industries?
 13 A Yes.
 14 MR. TREVETT: I offer Respondent 3.
 15 JUDGE CHU: Any objection?
 16 MS. SELLERS: No.
 17 JUDGE CHU: Marked and enter Respondent Exhibit 3.
 18 (Respondent's R-3 identified and received.)
 19 BY MR. TREVETT:
 20 Q Okay. Now --
 21 JUDGE CHU: You don't have an extra copy for the reporter.
 22 If you don't, I'll just give him nine. Great. Thank you.
 23 BY MR. TREVETT:
 24 Q Now, again, you described basically I think in pretty good
 25 detail as to what Colacino Industries does, what its business

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1 is. Is there anything that you wanted to add to what you
 2 testified to this morning on that -- on that score?
 3 A No. I tried to kind of create a bulleted list of some of
 4 the things that Colacino Industries does. You know, I pretty
 5 much summarized that we build automation systems, high
 6 technology, robotic welding systems, telemetry, scada (ph.),
 7 solutions for water and waste water industry, software
 8 development, software as a service, basically, which is cloud
 9 computing.
 10 Q Now, I --
 11 A And, legacy electrical contracting as it relates to the
 12 other disciplines.
 13 Q And, that's the pipe and wire stuff you're talking about?
 14 A Yes. Yeah.
 15 Q Now, you testified that you're currently located at 126
 16 Harrison Street; is that correct?
 17 A Correct.
 18 Q Has that business ever been located at any other address
 19 on Harrison Street?
 20 MS. SELLERS: What business?
 21 BY MR. TREVETT:
 22 Q Colacino Industries. I'm sorry.
 23 A I think when we first formed Colacino Industries, we were
 24 in the old building across the street. We had rented a small
 25 space of that building, 200 square foot as an office, while we

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1 were redeveloping -- I bought and remodeled this building I'm
 2 in now. So, it might have been formed -- In fact, it would
 3 show in here, it would be 129 -- yeah, 129 Harrison Street, but
 4 that was for two or three months.
 5 Q Okay. And, you've since been in 126 Harrison?
 6 A Correct.
 7 Q Now, I think you testified as to the formation of Newark
 8 Electric 2.0; is that correct?
 9 A Yes.
 10 Q And, the documents in fact -- Let me ask you this.
 11 How long was that company and I'll call it 2.0 for
 12 shorthand, how long was 2.0 in business actively?
 13 A We were functioning through it for just a short period of
 14 time, three months, four months, but by the time it got
 15 dissolved, it might have taken up to a year to actually
 16 dissolve it. I don't have the exact dates in front of me. It
 17 was very short lived though.
 18 Q But, the corporation is in fact dissolved; is that
 19 correct?
 20 A To the best of my knowledge, all that paperwork was filed
 21 and completed when we got back the notice of the dissolution.
 22 Q I'm handing you what I've marked as Respondent Exhibit 4.
 23 Do you recognize that packet of documents?
 24 A Yes.
 25 Q First of all, how many pages do you have?

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1 A Eight. Nine.
 2 Q How many?
 3 A Did I count wrong? Eight?
 4 Q Count again, please.
 5 A Ten?
 6 Q Okay. Okay. So, you've identified -- Again, what is this
 7 -- what is this document or this packet of documents?
 8 A This is the dissolution or liquidation of Newark Electric
 9 2.0.
 10 Q Okay. Are these business records that you keep in the
 11 ordinary course of business?
 12 A Yes.
 13 Q And, to the best of your knowledge, does it reflect the
 14 accurate -- truly and accurately reflect the actual dissolution
 15 of the company?
 16 A Yes.
 17 Q On the first page it indicates when the adoption of
 18 dissolution was, is that correct, under Item No. 4?
 19 A 7/31, 2012.
 20 Q Okay. On the first page, is that your signature?
 21 A Yes.
 22 Q And, it's dated, what?
 23 A September 4th.
 24 Q Okay. So, at some point after that, it was actually
 25 dissolved officially?

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1 A Yes.
 2 MR. TREVETT: Offer Respondent 4.
 3 JUDGE CHU: Any objection?
 4 MS. SELLERS: No objection.
 5 JUDGE CHU: Thank you. Marked and admitted into the
 6 record, Respondent Exhibit 4.
 7 (Respondent's R-4 identified and received.)
 8 BY MR. TREVETT:
 9 Q You were also asked some questions this morning about
 10 Newark Electric Corporation. Do you recall that?
 11 A Yes.
 12 Q Now, again, have you ever had -- did you or -- did you
 13 ever have any ownership interest in that company whatsoever?
 14 A No.
 15 Q Who was the owner of that company?
 16 A My father, Richard Colacino.
 17 Q You also indicated, I believe, that at some point you
 18 purchased the assets of that company?
 19 A Correct.
 20 Q When was that, sir?
 21 A Around 2000, when we entered into a buy/sell agreement
 22 between him and I. It was amortized over five years. That
 23 transaction took place over the next five years, the payment
 24 did.
 25 Q And, what price did you pay for the assets?

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1 A I believe the price was a half a million, 500 thousand.
 2 Q For that you got the items that you testified to this
 3 morning, the physical items?
 4 A Yes.
 5 Q You got the right to use the logos and so forth?
 6 A Yes.
 7 Q Prior to -- Prior to purchasing of the assets of that
 8 company, Newark Electric Corp., had you -- in Colacino
 9 Industries had you ever used that Newark Electric name, do you
 10 recall?
 11 A Everything happened concurrent. So, the formation of
 12 Colacino Industries just immediately prior to me buying the
 13 structure -- structuring the buyout of the assets. So, I would
 14 say to answer your question accurately, no.
 15 Q Okay. So, is it fair to say then since -- with respect to
 16 Colacino Industries, since almost day one, you've been using
 17 the Newark Electric name and logo and so forth?
 18 A Yes.
 19 Q Now, I can't remember if this question was asked or not,
 20 but the Newark Electric Corporation offices were located where,
 21 when your dad owned the company?
 22 A 131 Harrison Street.
 23 Q And, you now own that building?
 24 A I owned it for a period of maybe five, six, seven years,
 25 up until it was sold. The building's since been sold to ARC

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1 either?
 2 A The -- Having moved forward in the last few years, the one
 3 on 27 is the direction that we're taking the Newark Electric
 4 logo. The one that's on 26 still appears on some older
 5 equipment, some trucks from the early 2000s.
 6 Q And, I think you testified, the vehicles you bought
 7 recently don't have any logo whatsoever?
 8 A In the last several years we have -- I'm trying to think
 9 of the newest truck that has a logo, the one my father drives,
 10 it's probably three to four years old and it has the logo
 11 that's on 27 on the door.
 12 Q Okay.
 13 A Since then, no vehicles have been lettered.
 14 Q Now, let me switch gears a little bit. You testified you
 15 know Mike Davis, obviously, right?
 16 A Yes.
 17 Q And, you've known him for a number of years; is that
 18 correct?
 19 A Correct.
 20 Q For what period of time prior to entering into that first
 21 letter of assent in February 2011, for what period of time
 22 prior to that had Mr. Davis been trying to persuade you to sign
 23 up with the union?
 24 A I'd say, at least five years, maybe a little longer.
 25 Q Okay. And, so, if you go back to the beginning of that,

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1 early 2000s.
 2 Q Now, to the best of your knowledge, had Newark Electric
 3 Corporation done any business in the last ten years?
 4 A No. Absolutely not.
 5 Q Has it had any employees in the last ten years?
 6 A No.
 7 Q I'm going to have you look, if I can, at General Counsel
 8 Exhibits 26 and 27. That's these two documents here.
 9 So, now, I want to actually just refer to the second page
 10 of Exhibit 26. That's the first invoice page. Okay? Then,
 11 you look at the first page of Exhibit 27, which is also an
 12 invoice type page.
 13 Could you explain, just so I'm clear, in Exhibit 26, the
 14 Newark Electric logo is the one originally at the top there.
 15 A Yeah.
 16 Q And, that's the one you bought the rights to from your
 17 father?
 18 A Yes.
 19 Q And, then, you have the Colacino Logo to the right of
 20 that, which I think you testified at least today, it's been
 21 your logo from 2000.
 22 A Correct.
 23 Q Now, in Exhibit 27, the Newark Electric logo is different.
 24 A Correct.
 25 Q Which of these two Newark Electric logos is used today, if

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1 2005, 2006, somewhere in there, what efforts was Mr. Davis
 2 making to get you to sign up with the union?
 3 A He was explaining -- You know, he would call me, we would
 4 meet for lunch to talk about what the union was proposing as
 5 far as some of their -- probably the best way -- how the -- how
 6 the union could benefit my company. He would explain to me
 7 what he believed was, you know, potentially be a good fit, his
 8 labor, my work load. It basically was several lunch meetings.
 9 Mike would stop at the office several times, again, trying to
 10 explain the benefits of a union shop.
 11 Q Okay. And, in the beginning in those first couple of
 12 years or so, how frequent were the contacts?
 13 A Fairly frequent. I would say in some cases, sometimes we
 14 would talk several times a week. Generally, it would go in
 15 spurts. We would talk on a fairly regular basis for a few
 16 months and there might be a couple quiet months and, then, it
 17 would pick up again, the frequency.
 18 Q Okay. At any point in time, did the contacts -- Mr.
 19 Davis's contacts with you become more frequent or intense?
 20 A Yeah. I would think that -- Again, like I said, the
 21 intensity or the frequency would pick up. I don't know
 22 specifically what drove that, the cycles. But, yeah, we would
 23 hear from Mike several times a day to not hearing from him for
 24 a few weeks. Yeah.
 25 Q So, if we go to, say, 2010, how would you characterize the

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1 nature and frequency of Mr. Davis's contact with you?
 2 A I would say that he was more persistent in finding some
 3 type of a way to work together.
 4 Q When did Mr. Davis first broach the idea of using these
 5 letters of assent that you've referred -- you testified about?
 6 A I think initially in our first conversations, the first
 7 few years, we had talked primarily about letter -- a letter of
 8 assent A. I can't tell you the exact time when the idea came
 9 up of a letter of assent C, but that was explained to me as
 10 though it was more of a -- kind of a test drive to show the
 11 benefit of being a union contractor, it's a six to 12 month
 12 trial. I think that came about in our conversations, I'd say,
 13 the second half of our time that we've known each other.
 14 Specifically, again, I think there was a fair amount of
 15 pressure to make this happen in 2010, 2011, it started to get
 16 more aggressive.
 17 Q You say pressure. Pressure by whom or on whom?
 18 A The frequency of the calls, the office calls, the office
 19 visits, the lunch invitations became more intense from Mike to
 20 me. I never really sought after the union, the union was
 21 seeking me, my company.
 22 Q And, you also referred to being more aggressive. What did
 23 that mean?
 24 A I think the pressure to sign a letter of assent, whether
 25 it be an A or a C, intensified with back up and understand the

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1 relationship as it related with Tony Blondell. When Tony
 2 worked for us -- And, again, this came out of our
 3 conversations, Mike and I. Mike had wanted to send me a
 4 journeyman class -- a journeyman caliber electrician to try for
 5 a while. Take him, see how it works out. He found a mechanism
 6 to have Tony come and work for us.
 7 Q What was that mechanism?
 8 A I don't know. But, basically, I paid Tony as though he
 9 worked for me, I paid him entirely -- every hourly rate,
 10 pension, annuity, NECA, all the health insurance, everything I
 11 paid him directly. They may have on their books treated it as
 12 a -- I don't know how they did that. That was an internal
 13 mechanism. But, the idea was, here, take Tony for two, three
 14 months, see what you think about one of our better journeymen.
 15 And, quite frankly, Tony worked out well. He was a good
 16 electrician, hard worker. But, there came a point where Tony --
 17 -- They called Tony back. The test drive was over, so to speak.
 18 And --
 19 Q When was that?
 20 A I'm going to say three months after -- And, this goes back
 21 2006, 7-ish. So, Tony -- Again, when Tony first came, the very
 22 first week, we had wrote a check to Tony for his net pay, minus
 23 all his taxes and wrote the other benefits checks to the union.
 24 The union -- Mike had called me back. He said, you know, we
 25 can't do it that way. Pay everything to Tony directly. So, we

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1 did. And, for those few months that we took him for a test
 2 drive, if you will, we paid Tony as though he was on a public
 3 works job as a non-union contractor.
 4 Q And, just for the sake of clarity. Which company was
 5 paying him?
 6 A Colacino Industries.
 7 Q All right. So, there comes a time when Tony's brought
 8 back to the hall, called back, I think you said.
 9 A Yeah.
 10 Q What happens next in this relationship?
 11 A Tony approached me and he said, I don't want to leave. I
 12 like working here. I like your company. What are your long-
 13 term intentions with the union. I said, right now, Tony, I
 14 said, I don't see it as a good fit because of the type of work
 15 we do. He understood that and he said, well, how can I -- They
 16 basically put him on a couple other jobs, he was working out of
 17 town, but he really wanted to come back.
 18 So, he approached me and the only resolution that could be
 19 thought of was if Tony formed his own company and signed with
 20 the union. And, then, I would hire him as a subcontractor.
 21 Q Did you have any conversation with Mr. Davis about that?
 22 A I believe Mike was in on the conversations. I don't think
 23 it was -- I don't know specifically to the extent that Mike
 24 suggested it or anything, but it was probably the only
 25 resolution at the time where Tony could stay with my company

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1 and still be an IBEW member in good standing. Tony formed an
 2 LLC, Blondell Electric, was signatory with the union and, then,
 3 we hired him as a subcontractor. And, for a period of four
 4 years paid Tony as a subcontractor for Colacino Industries.
 5 Q And, at some point, did that relationship come to an end?
 6 A As the union was still struggling to get us to be a
 7 signatory contractor, I believe that it was their decision to
 8 pull Tony back and say, this relationship can't be done any
 9 more because we need to get Newark to sign and I use the term
 10 Newark because that's what the paperwork says. But, we can't
 11 get Colacino Industries or Newark Electric to sign as long as
 12 you're there.
 13 So, Tony told me that there was a -- I'm trying to think
 14 of the word that he used because I want to be as accurate as I
 15 can. When Tony worked for us, he took all the -- all the wages
 16 and all the benefits in cash.
 17 MS. MATTIMORE: Your Honor, I'd like to object to this
 18 line of testimony. I can't understand the relevance. He's
 19 talking about events fairly remote in time to what's alleged in
 20 the complaint. Talking just hearsay testimony from Mr.
 21 Blondell. It doesn't seem to have --
 22 JUDGE CHU: This was testimony that was raised by Mr.
 23 Blondell yesterday on direct and on cross-examination. This is
 24 not a far-fetched event. If you were in the trial room
 25 yesterday, you would have heard his testimony.

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1 MS. MATTIMORE: I apologize if it was raised yesterday. I
2 didn't see the relevance today.

3 JUDGE CHU: Mr. Blondell did testify that he was
4 subcontracting. Continue.

5 MS. MATTIMORE: Okay. Thank you, Your Honor.

6 BY MR. TREVVEIT:

7 Q All right. So, let me -- So, at some point this
8 relationship with Mr. Blondell -- Blondell Electric came to an
9 end; is that correct?

10 A Yes.

11 Q When was that?

12 A Months prior to, just a few months prior to me signing
13 Newark Electric forming and then, signing with the union, a
14 letter of assent C for Newark Electric 2.0. So, I'm going to
15 say --

16 Q That's the one dated February?

17 A That one dated February of 2011. It would be in the
18 months prior to that. And, where it came from, the
19 relationship as a subcontractor for Tony could have gone on
20 from my perspective indefinitely because it was working out.
21 But what had happened was Tony was paid all the union wages,
22 benefits in cash. And, one of those was for health insurance.
23 And, Tony was able to opt out of paying that into the union
24 because he was an owner of his own company, so he could opt
25 out. Tony came to me and he said that the union's making me

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1 come back or pay \$38,000 because I'm doing bargaining unit work
2 with my own hands, therefore, I'm obligated to pay into the
3 benefits and hence, I owe 38,000. That will go away if I
4 dissolve my company and go back and sign the book with the
5 union.

6 Q Now, at this point in time, Tony goes back, discontinues
7 the relationship; is that correct?

8 A Correct.

9 Q At this point in time, what are your conversations with
10 Mr. Davis about signing up for the union?

11 A If I signed up with the union, I could have Tony back.

12 Q Other than these conversations did Mr. Davis do anything
13 else to try to persuade you to sign up for the union?

14 A Yeah. On several occasions he would solicit my employees
15 to sign with the union, some of which did do that, only to be
16 laid off immediately. So, what it was doing is, it was picking
17 away my work force that I trained. They signed with the union,
18 they get laid off, now I have to pay their unemployment.

19 Q Okay. And, was that expense -- how much of an issue was
20 that expense for you?

21 A It was --

22 MS. MATTIMORE: Objection to the relevance again.

23 JUDGE CHU: We don't need to get into that, the expense on
24 the unemployment insurance.

25 BY MR. TREVVEIT:

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1 Q All right. So, at the point that you, you know -- At the
2 point just prior to February -- Actually, let me do this.

3 What's been remarked as Respondent Exhibit 2, do you see
4 that, this other letter of assent?

5 A Okay.

6 Q Do you see that document?

7 A Yes.

8 Q I think you testified that Mr. Davis would bring these
9 letters of assent C with him when he met with you; is that
10 correct?

11 A I'm assuming the early ones were A for our ten year
12 together, knowing each other it would probably be letters of
13 assent C.

14 Q And, sometimes, he would leave them with you and
15 sometimes, he wouldn't?

16 A Right.

17 Q All right. Now, at the time -- This first one on top is
18 dated November 9, 2010, do you see that?

19 A Yes.

20 Q Now, what was the nature of the conversations you were
21 having with Mr. Davis at that point in time?

22 A He would -- When we talked about the heartache I was
23 having with my employees being picked away, trying to find good
24 skilled labor, he would present one of these and he said, your
25 problems will go away, sign right here.

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1 Q And, so, this top document is something he left with you;
2 is that correct?

3 A Yeah. I believe so. Yes.

4 Q Did you -- Looking at this top document, did you fill in
5 any of this information -- any of these underlined blanks where
6 you have to fill it in?

7 A No.

8 Q Okay. And, on the second page, you didn't fill any of
9 that in, or did you?

10 A No.

11 Q Did the name of -- The address I think you testified is
12 not correct on this one?

13 A Correct.

14 Q Okay. And, if you skip to the one that starts with little
15 letter C at the bottom, that's the one dated December 8th,
16 2010. Do you see that?

17 A December 8th. Yeah.

18 Q Again, did you fill in any of the blanks on this document
19 either?

20 A No.

21 Q And, the address on the second page, is that correct or
22 incorrect?

23 A Incorrect.

24 Q All right. Now, at any point in time did you actually
25 fill out any information on any of these letters of assent Cs

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1 that you had been presented with at any point?

2 A Only the signature on the one in February.

3 Q So, by that -- I mean, if we look at General Counsel's 6

4 which is the February -- So, the only thing you filled in on

5 this was your signature; is that correct?

6 A Correct.

7 Q Do you happen to know -- I'm asking you if you know, where

8 Mr. Davis got the information that was filled in these blanks?

9 A No.

10 Q Okay. Did you authorize anybody at your company to

11 provide this information to him?

12 A No.

13 Q Now, I think we -- Sticking with this General Counsel 6,

14 the February letter of assent. Describe to me how that was

15 presented to you on February 24th.

16 A Mike had -- To the best of my memory, Mike showed up at

17 the office with Frank and Clark and brought with him, I

18 believe, several copies of this, five, six copies of this and

19 we, you know, agreed that we were going to sign this document.

20 He came as scheduled. I don't know what time, if it was

21 evening early evening, but I think it was. And, he had them

22 in a little binder -- not a binder, but a little folder. --

23 signed multiple copies. We shook hands and we went to dinner.

24 Q How long did this signing of the documents take?

25 A Just a few minutes. As long as it takes to write your

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1 A Under that agreement? I'm going to say roughly three

2 months, four months. I don't know the exact time period.

3 Q And, when they were working -- Anybody who was working

4 under that agreement for Newark Electric 2.0, how -- how -- by

5 what company were they paid?

6 A Newark Electric 2.0.

7 Q And, if they were working for Colacino Industries, how

8 were they paid?

9 A Colacino Industries.

10 MR. TREVETT: Could we show him General Counsel Exhibit

11 20, please?

12 BY MR. TREVETT:

13 Q Do you recognize that document?

14 A I do.

15 Q Okay. Those are pay stubs for Mr. Blondell?

16 A Copies of them. Yeah.

17 Q So, this reflects which company he was paid under; is that

18 correct?

19 A Yes.

20 Q So, when he was doing work for 2.0, he was paid 2.0 and

21 Colacino, he was paid Colacino; is that correct?

22 A Correct.

23 Q Was Mr. Blondell ever paid by any other company that you

24 owned?

25 A No. Never.

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1 name six times.

2 Q Had he suggested that you read through it at all or?

3 A Not specifically. I don't mean to imply that he didn't

4 want me to either, but no, he didn't -- I didn't go through it

5 in any detail, to be honest with you.

6 Q Okay. I guess that was my question. Before you signed

7 it, did you review it at all?

8 A No. I assumed it would be accurate cause Mike was well

9 aware of the formation of separate companies.

10 Q I think we've established -- You were asked whether or not

11 Newark Electric 2.0 had a tax ID number at this point; is that

12 correct?

13 A Correct.

14 Q And, it did not?

15 A It did not.

16 MS. SELLERS: Objection. It did not, is that what he

17 said?

18 MS. MATTIMORE: It did not.

19 BY MR. TREVETT:

20 Q Now -- So, you signed on this letter of assent with Newark

21 Electric in February, right? Now, how long did you do -- How

22 long --

23 A Yes. I'm sorry.

24 Q I'm sorry. How long did you have employees working for

25 Newark Electric 2.0 under the union -- under that agreement?

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1 Q Thank you.

2 Are you aware of any employees during the time period

3 from, say, 2011 on being paid under a Newark Electric

4 Corporation account?

5 A There was absolutely none.

6 MR. TREVETT: Judge, I'm coordinating my outline.

7 JUDGE CHU: Sure. Take what time you need.

8 (Pause.)

9 BY MR. TREVETT:

10 Q Could you take a look, if you would, at General Counsel

11 Exhibit 29?

12 A Do I have that?

13 Q You should have it. Do you see that?

14 A Yes.

15 Q You were asked by General Counsel about the two different

16 email addresses that are attributed to you; is that correct?

17 A Yes.

18 Q Now, if someone had sent the email to the address

19 jcolacino@newarkelectric.com, where would it have gone?

20 A That's what's called a masquerade to

21 jcolacino@colacino.com.

22 Q Okay. So, any of those, they all go to the same Colacino

23 address?

24 A Same mail box. Yeah.

25 Q Now, if you had responded to this -- You were copied in on

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1 this, so if you responded to this, what email address would it
 2 have shown?
 3 A jcolacino@colacino.com.
 4 Q Okay. You were asked this earlier by General Counsel
 5 about the termination of the letters of assent. Do you recall
 6 being asked about that?
 7 A Yes.
 8 Q Okay. And, the letter of assent that was signed with
 9 Colacino Industries in July, that was terminated by letters to
 10 both NECA and Local 840; is that correct?
 11 A Wasn't that earlier than July?
 12 Q Well -- I'm sorry. April.
 13 A Correct.
 14 Q Let me re-ask the question. Withdraw it.
 15 A Okay.
 16 Q With reference to the letter of assent that was signed
 17 with Colacino Industries on July 20th of '11 --
 18 A Yeah.
 19 Q -- you testified that that was terminated by letters I
 20 believe to NECA and Local 840.
 21 A Yes.
 22 Q And, you testified the letters are in evidence.
 23 A Yes.
 24 Q Did you use -- Was the same procedure used when you
 25 terminated the letters of assent with Newark Electric?

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1 A Newark Electric 2.0.
 2 Q Mm-hm.
 3 A I believe -- To the best of my knowledge, yes.
 4 MR. TREVVETT: Okay. And, show him General Counsel 13.
 5 JUDGE CHU: He has it.
 6 BY MR. TREVVETT:
 7 Q Okay. All right. That's your signature, right?
 8 A Yes, it is.
 9 Q And, this was sent out to Local 840.
 10 A Correct.
 11 Q Did you ever -- Did Mike Davis or anybody else from Local
 12 840 ever contact you or write you back about this letter?
 13 A Not directly. I think that would be the letter from
 14 Blitman and King, but, no.
 15 Q Okay. But, you never heard anything from Local 840.
 16 A There was -- And, again, I could be wrong on which letter,
 17 the termination letter this happened, but I know that Mike had
 18 made a comment to the two girls, Deb Geary and Jessica Velte
 19 that he still considered us a union contractor, whether it was
 20 after this one or the other one, I can't -- can't remember.
 21 MR. TREVVETT: Okay. I want to have him take a look at
 22 General Counsel Exhibits 13, 14, 15.
 23 MS. SELLERS: He doesn't have 14 or 15.
 24 THE WITNESS: Yeah. I was going to say I don't think -- I
 25 only have 13.

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1 MR. TREVVETT: You have 13?
 2 MS. SELLERS: He has 13 in front of him because I used it.
 3 MR. TREVVETT: I'm sorry.
 4 MS. SELLERS: I have copies.
 5 MR. TREVVETT: I have 14 and 15. Thank you.
 6 JUDGE CHU: Thank you, Ms. Sellers.
 7 BY MR. TREVVETT:
 8 Q So, if you look at 14 and 15 --
 9 A Yeah.
 10 Q -- this was a packet of information that was sent to the
 11 union. Do you recognize it?
 12 A Yes.
 13 Q Okay. Now, the document, General Counsel 15, do you know
 14 who wrote that?
 15 A Who filled -- Who made the blank form?
 16 Q Yeah.
 17 A I believe, Jessica Velte.
 18 Q All right. And, were you aware of this?
 19 A Yeah.
 20 Q Did you direct her to do this?
 21 A Yes.
 22 Q There's a reference in here to a letter of termination of
 23 assent. Do you know what letter of termination that refers to?
 24 A I'm assuming by the date that it would have -- It says for
 25 Colacino Industries. I'm trying to get this straight in my

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1 head chronologically. I'm going to assume that it had to be
 2 the one for Colacino Industries, by the date of this document.
 3 Q Well, if you look at the -- Exhibit 14 was with this, is
 4 that correct, as a packet?
 5 A Yes.
 6 Q Okay. So, now, Exhibit 14, what does that reflect?
 7 A A much later date. It's a payroll summary and I
 8 misunderstood. The dates that this is referencing have to do
 9 with union payments, not the date of the document. So, this
 10 probably coincides with the Newark Electric 2.0 letter of
 11 termination.
 12 Q And, is that -- Are you referring to General Counsel 13?
 13 A Yes. Because the date is the 29th and I believe this
 14 references the pay periods up to the 29th.
 15 Q Do you know why then -- why it says in the cover Colacino
 16 Industries as opposed to Newark Electric 2.0?
 17 A Of this letter?
 18 Q Yes. I'm sorry. General Counsel 15. Yes.
 19 A No, I do not.
 20 Q All right.
 21 A Again, we -- We at that point in time -- I say we, my
 22 office staff, everybody was under the impression that the only
 23 one in existence was Colacino Industries.
 24 MR. TREVVETT: Okay. Can I have just a couple minutes,
 25 Judge?

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1 (Pause.)
 2 MR. TREVVETT: Nothing further at this time. Thank you.
 3 JUDGE CHU: You were talking a little bit about the
 4 background of how the local was trying to solicit your company,
 5 2.0 or Colacino Industries, to join, to become a union shop.
 6 THE WITNESS: Yeah.
 7 JUDGE CHU: Were those same type of solicitations
 8 happening, if you know, when Newark Electric was owned by your
 9 father?
 10 THE WITNESS: No. Not really. We would occasionally bid
 11 on a public works project and at that time I believe it was
 12 Local 86 that covered our territory, the Newark area. And, if
 13 we were the low bidder on a public works project, we would get
 14 a letter from the union stating that, you know, we're going to
 15 be watching your payroll. You better have certified payrolls.
 16 But, never any active solicitation to organize from the top
 17 down. Occasionally, they would try and organize our employees,
 18 but never -- never really panned out.
 19 JUDGE CHU: And, you testified that you're not aware or
 20 you don't know why there was push to do so in 2004 and 2005?
 21 THE WITNESS: I think end, again, this is speculation, but
 22 I just believe it was a downturn in the economy and limited
 23 work load. I think they were -- Normally, the unions were
 24 prevalent on the big projects and when that work kind of dries
 25 up, then, they go after the lower hanging fruit. And, my

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1 company typically didn't bid a lot of big, big projects. We're
 2 a small contractor, but we're a busy contractor. I believe
 3 that that was the motivation, they definitely were going after
 4 contractors my size and smaller trying to -- you know, trying
 5 to organize that type of work. And, I think they --
 6 JUDGE CHU: Right. And, when you eventually did sign off
 7 on the letter of assent C with Newark Electric -- went to the
 8 Newark Electric 2.0, you testified that you just signed off on
 9 it, did not review that document?
 10 THE WITNESS: There had been conversations. I didn't just
 11 sign into it, you know, haphazardly. I had expressed my
 12 reservations, but I never went through the document in detail.
 13 It was -- It was sloppy on my part, but I just made the
 14 assumption that the information would be accurate. We had
 15 multiple conversations about the formation of a separate
 16 company. And, Mike -- Mike Davis had always reiterated to me,
 17 you don't need to do that. Don't waste your time doing that.
 18 It's not necessary. Just sign the whole company. And, I just
 19 wasn't comfortable understanding that such a small percentage
 20 of my work was a fit for what they could offer.
 21 JUDGE CHU: Thank you. Redirect, if any?
 22 MS. SELLERS: Respondent provided us a document today --
 23 Okay.
 24 REDIRECT EXAMINATION
 25 BY MS. SELLERS:

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1 Q Earlier today I asked you if you knew when Newark Electric
 2 Corp. was dissolved. I know this goes beyond the scope of your
 3 examination, but we've got a document that could clarify that
 4 for the record.
 5 MR. TREVVETT: I don't have an objection.
 6 BY MS. SELLERS:
 7 Q I have a document that's on the New York State Department
 8 of State's website and their website states that as of August
 9 26, 2013, that the date of dissolution for Newark Electric
 10 Corp. was April 3rd, 2013. Does that sound right to you?
 11 A I wouldn't know and I can explain why. I was even up
 12 until just Ed and I starting the process to get ready for
 13 today, was unaware that that had actually taken place.
 14 Q Okay.
 15 A The reason was, I was -- I had quite a serious medical
 16 leave and I was out of commission from January 1st till in May,
 17 so that might have happened when I was out.
 18 MS. SELLERS: Okay. We'll talk at the break and maybe we
 19 can --
 20 MR. TREVVETT: Any way you want to put it in is fine with
 21 me.
 22 JUDGE CHU: Do you just want it noted for the record?
 23 MS. SELLERS: I just want it noted for the record that
 24 according to this document for the record, so we can have the
 25 dissolution date of all the companies.

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1 JUDGE CHU: And, what is that date again?
 2 MS. SELLERS: April 3rd, 2013.
 3 JUDGE CHU: And, that's for Newark Electric Corp., right?
 4 MS. SELLERS: Corp. That's fine.
 5 JUDGE CHU: If the parties are willing to stipulate that.
 6 MR. TREVVETT: I'll stipulate to that.
 7 MS. SELLERS: Okay.
 8 MR. TREVVETT: I mean, that's what the document says at
 9 the website.
 10 MS. SELLERS: Thank you.
 11 BY MS. SELLERS:
 12 Q The gentleman who -- General Counsel's Exhibit 12, the
 13 letters to terminate the letter of assent for Colacino
 14 Industries, you said Kevin Groff
 15 A Kevin Groff. Yeah.
 16 Q Okay. You said that he did that and you believe that he
 17 did that same procedure in order to dissolve the letter of
 18 assent that was originally signed on February 24th, 2011,
 19 correct?
 20 A Correct.
 21 Q Did he show you those documents?
 22 A He would have brought them in for my signature.
 23 Q Okay. But, you don't remember what they were or how many
 24 there were?
 25 A No.

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1 Q Okay.
 2 A I'm pretty confident that there were two, one referencing
 3 NECA.
 4 Q But, we don't have that document.
 5 A Right.
 6 Q Just because I think it got a little confusing mostly due
 7 to me. At the time that you signed that letter of assent in
 8 February 2011, you did not have a tax ID number for Newark
 9 Electric 2.0, correct?
 10 A Correct. We were waiting on that paperwork.
 11 MS. SELLERS: I have no further questions.
 12 JUDGE CHU: All right. There are no other questions
 13 before you now. You're dismissed as a witness. Please do not
 14 discuss your testimony with anybody other than your legal
 15 representative.
 16 THE WITNESS: Okay.
 17 JUDGE CHU: Thank you.
 18 (Whereupon, the witness was excused.)
 19 JUDGE CHU: Off the record, please.
 20 (Whereupon, a recess was taken.)
 21 JUDGE CHU: All right. Let's continue. Mr. Trevvett,
 22 who's your next witness?
 23 MR. TREVVETT: Scott Barra.
 24 JUDGE CHU: Mr. Barra, let me swear you in as a witness.
 25 Raise your right hand.

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1 Whereupon,
 2 SCOTT BARRA
 3 Having been first duly sworn, was called as a witness here in
 4 and testified as follows:
 5 JUDGE CHU: Can you state for the record your full name
 6 and spell your last name, please?
 7 THE WITNESS: Scott Aaron Barra. B-a-r-r-a.
 8 JUDGE CHU: Counsel, your witness.
 9 MR. TREVVETT: Thank you.
 10 DIRECT EXAMINATION
 11 BY MR. TREVVETT:
 12 Q By whom are you employed, sir?
 13 A Colacino Industries.
 14 Q How long have you been employed by Colacino Industries?
 15 A A little over two years.
 16 Q All right. And, in what capacity are you employed?
 17 A I don't understand.
 18 Q What do you do?
 19 A I'm an electrician.
 20 Q And, prior to that, prior to coming over to Colacino
 21 Industries, where did you work?
 22 A I worked for Local 840.
 23 Q All right.
 24 A With many different contractors, all different
 25 contractors.

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1 Q For how long are you a member of 840?
 2 A Approximately, 11 or 12 years.
 3 Q Okay. And, was that a constant membership in Local 840?
 4 A Yeah.
 5 Q Now --
 6 A I'm sorry. Part of it was 86. We don't have a local --
 7 840 didn't have a local when I first joined. The first four
 8 years, I was 86.
 9 Q 86 is the IBEW out of Rochester?
 10 A Yeah.
 11 Q Okay. All right. What's the history of -- Local 840
 12 existed the whole time -- What periods of time, let me ask you
 13 that, did Local 840 exist when you were employed?
 14 A 2006 they got their charter, something like that.
 15 Q Okay. Now, when you were a member -- Are you still a
 16 member of Local 840?
 17 A No.
 18 Q All right. And, when did you stop being a member?
 19 A July of last year.
 20 Q July of 2012?
 21 A Yeah.
 22 Q Prior to July 2012, you were a member of Local 840, did
 23 you hold any positions in the union?
 24 A I was recording secretary for the Executive Board. I was
 25 a vice president and I was an instructor for the

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1 apprenticeship.
 2 Q When were you the vice president, what years?
 3 A I want to say 8 to 10, 8 to 10.
 4 Q And, what were your duties as a vice president?
 5 A To run the monthly meetings if the president wasn't there.
 6 I went to political meetings for the union. As recording
 7 secretary, that was just kind of verify that you -- the vice
 8 president that you kept the record -- the minutes of the E
 9 Board.
 10 Q And, I think you said you were on the Executive Committee;
 11 is that right?
 12 A Yeah.
 13 Q And, what years was that?
 14 A The same as I was president. And, I was -- I was a
 15 temporary replacement for two years prior to that -- before
 16 that.
 17 Q At any point in time do you do any work for a company
 18 called Newark Electric 2.0?
 19 A When I first started for the company, I had a couple pay
 20 checks from them, when I first started with -- Clark Culver
 21 sent me to Newark. I worked for them -- I didn't even realize
 22 it was for them, but I got a W-2 from 2.0 for a short period of
 23 time.
 24 Q And, you were sent there by whom?
 25 A Clark Culver, who was a business agent at the time.

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1 Q Now, when you were an officer in Local 840, did Mr. Davis
2 hold any positions with 840?
3 A He was the organizer/assistant BA.
4 Q And, were you aware of any efforts to sign up Colacino
5 Industries with Local 840?
6 A Yeah. He's been trying to organize them for years when I
7 was in there. We'd just get our monthly report that he had
8 been talking to them, they don't go into details or nothing.
9 Q Did you have any conversations with Mr. Davis about
10 organizing or getting a relationship with Colacino Electric --
11 Colacino Industries?
12 A We went to an open house one time, I saw a ad in the
13 newspaper they were having a little get together at their shop,
14 Davis attended it.
15 Q And, when was that, sir?
16 A It was 2007, probably.
17 Q Okay. And, that's before you were working then with
18 Colacino Industries.
19 A Yeah. It was a while before that. Yeah.
20 Q Okay. Are you aware of any actions that Mr. Davis had
21 taken to enter a relationship with Colacino Industries?
22 MS. MATTIMORE: Objection on the relevance. He was
23 testifying about events from '07 and I don't see the relevance.
24 JUDGE CHU: Sustained.
25 BY MR. TREVETT:

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1 being laid off again. So, I had talked to my wife about it and
2 we all knew that if Jim goes non-union, I even talked to Mike
3 Davis about what would happen, if he went back non-union. And,
4 he said, well, as soon as I hear that he's going to go back
5 non-union, I'll pull you guys from him and, then, we'll see how
6 much work he does with no employees.
7 So, I didn't want to get pulled and I knew if I tried to
8 stay working for him and the union wanted me to leave him,
9 they're going to bring me up on charges. So, my option was --
10 I went to Mike and I asked Mike can I just go a leave. Can I
11 stay a member, non active member. And, he told me no because
12 they are in a bargaining agreement. Because we have other
13 members that are working as maintenance -- electrical
14 maintenances that have left -- not left, but took a leave to go
15 work as a maintenance electrician in other places and they
16 stayed a member. But, he told me I couldn't.
17 So, my option was either, I let him pull me back to the
18 union and, then, he'd try to find work for me. I don't know if
19 that's going to be tomorrow or I don't know if it's going to be
20 eight months from now. I had just gotten over that eight
21 months trying to get my finances back in charge and I couldn't
22 afford that. I talked to my wife and we made a decision and I
23 resigned from the local.
24 Q Now --
25 A I wanted to stay working for Colacino Industries.

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1 Q Okay. Now, were you aware at some point that Colacino
2 Industries or Newark Electric had entered into a relationship
3 with Local 840?
4 A Yes. I was aware of it.
5 Q How did you become aware of that?
6 A Through the Executive Board meetings talked about it, our
7 monthly meetings we had talked about it, at our monthly
8 meetings.
9 Q When was that -- When did you first become aware of that,
10 that there was a relationship?
11 A At the Executive Board meeting.
12 Q I'm just -- Do you remember what date that was?
13 A I don't.
14 Q Was that before or after you started working for Newark
15 Electric?
16 A It was before.
17 Q Now, you indicated that there came a time that you
18 resigned your membership in Local 840; is that correct?
19 A That's correct.
20 Q Why did you do that?
21 A Well, we all knew at the time -- that Jim had a year to
22 get out and we knew the date. And, me and Tony Blondell had
23 been -- we worked together on and off for almost a year and a
24 half and we had talked about it. I had been laid off eight
25 months prior to going to them and I was real concerned about me

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1 A Did Mr. Colacino have any discussions with you about
2 resigning?
3 A No. It was me and my wife's decision.
4 Q Now, you said you worked with Tony Blondell, Anthony
5 Blondell; is that correct?
6 A That's correct.
7 Q Okay. And, how was it that you two worked together?
8 A He worked for Colacino the same as I did. He's been in
9 the union for a lot longer than me.
10 Q Now, did you and Mr. Blondell have any discussions about -
11 - Let me withdraw that.
12 In your earlier testimony you said we all knew the date.
13 What was the date you're referring to, first of all?
14 A July 20th.
15 Q Of what year?
16 A 2012.
17 Q And, who was the we when you say we all knew the date?
18 A All of Jim's employees. We talked to Mike about it.
19 Anybody that worked for Colacino Industries knew that he had a
20 year when he signed, cause it was pretty much common knowledge.
21 We all talked about it. It's not a huge company.
22 Q Okay. Now, were you aware of how Mr. Blondell -- Well,
23 first of all, were you aware that he left his employment with
24 Colacino Industries?
25 A Yes. I had many discussions, me and Tony, because I

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1 didn't want hard feelings that I was going to leave the union,
 2 cause his feelings was he wasn't going to leave because he had
 3 been there so long. He didn't want to give that up, which I
 4 don't blame a guy, the same I didn't want him to blame me for
 5 leaving. We had many discussions that, you know, that he
 6 wished Mike Davis would leave Jim alone. We couldn't get the
 7 guys --
 8 MS. MATTIMORE: Objection.
 9 MS. SELLEERS: Your Honor, I'm going to object because
 10 this testimony wasn't allowed by Mr. Blondell yesterday, so I
 11 don't believe it should be allowed by Mr. Barra today.
 12 JUDGE CHU: I don't need the conversations between him and
 13 Mr. Blondell as to reasons for leaving.
 14 BY MR. TREVETT:
 15 Q Were you present during any meetings between Mr. Colacino
 16 and Mr. Blondell about Mr. Blondell's termination and the
 17 layoff?
 18 A I was there. Yes. Me and Tony had talked to Jim cause I
 19 had -- Tony didn't want Jim to be in a rut. Tony had mentioned
 20 to Jim -- to me and to Jim in a meeting that he probably should
 21 just lay him off for lack of work. That way, he wouldn't be in
 22 the middle of it, if he was to get out of the union. They
 23 couldn't tell Jim that he was still in the union cause Tony was
 24 working for him. That was Tony's words in that meeting.
 25 Q Where did that meeting take place?

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1 Saturday when he was present. Go ahead. Continue.
 2 BY MR. TREVETT:
 3 Q So, let me ask you this. Was there one occasion or more
 4 than one occasion when you were present during a conversation
 5 between Mr. Blondell and Mr. Colacino about Mr. Blondell being
 6 laid off, one time or more than one?
 7 A No. There was more than one.
 8 Q And, during those conversations what did Mr. Blondell say
 9 about being laid off?
 10 A That he should -- He didn't want to be in the middle of
 11 it. He didn't want to be in the middle of a battle between Jim
 12 and the union. Being able to tell Jim he was still in the
 13 union because he worked for him and he was a union member. He
 14 wasn't getting out. Tony wanted to not be a part of that.
 15 Tony was -- He said to Jim, if you just lay me off for lack of
 16 work, then they can't use me as a tool to tell you that you're
 17 still in the union cause I work for you. Because me and Tony
 18 had talked that I was getting out. If it came down to that, I
 19 was getting out.
 20 Q Did Mr. Colacino make any response to those comments by
 21 Mr. Blondell?
 22 A No.
 23 Q Are you aware of whether -- Did you ever see any
 24 correspondence between the two about the layoff?
 25 A No. I didn't see any correspondence.

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1 A It was a week prior to the 20th of July.
 2 Q Did Mr. Blondell say anything else during that meeting
 3 about being laid off?
 4 A Not when I was there. No.
 5 Q Were you present during any other meetings when Mr.
 6 Blondell was discussing the subject of being laid off?
 7 A Two weeks prior, when we had the -- when information from
 8 Jim's desk brought to Mike Davis --
 9 MS. SELLEERS: Objection. This is all hearsay testimony
 10 and Mr. Colacino was just on the stand and didn't testify to
 11 any of this.
 12 MR. TREVETT: Well, Mr. Blondell was also on the stand
 13 yesterday testifying about it and the charge alleges that Mr. --
 14 -- my client basically discriminated against him.
 15 JUDGE CHU: This came up on Mr. Blondell's direct
 16 testimony in that he had mentioned this witness's name.
 17 MS. SELLEERS: He specifically said this witness was not
 18 present. He was asked by Mr. Trevett and he testified that
 19 this witness was not present.
 20 JUDGE CHU: He wasn't present at that time, but he was
 21 present at the --
 22 MS. SELLEERS: At the other meeting. Okay.
 23 JUDGE CHU -- at the meeting the next day. But, this is
 24 fine because it's background information, if he wasn't present,
 25 he wasn't present. But, it's leading up to the meeting on that

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1 MR. TREVETT: All right. Can I have just a minute with
 2 my client?
 3 JUDGE CHU: Go ahead. Off the record.
 4 (Whereupon, a recess was taken.)
 5 JUDGE CHU: Back on the record. There's no other direct
 6 examination of this witness by Respondent counsel at this time.
 7 I turn it over to the Acting General Counsel at this time.
 8 MS. SELLEERS: Can I just ask for a minute, Your Honor?
 9 JUDGE CHU: Go ahead. Off the record.
 10 (Whereupon, a recess was taken.)
 11 JUDGE CHU: Go back on. Let's continue.
 12 CROSS-EXAMINATION
 13 BY MS. SELLEERS:
 14 Q Mr. Barra, I'm Ms. Sellers. I'm representing the General
 15 Counsel. You said you served as recording secretary and vice
 16 president for Local 840?
 17 A Recording secretary for the E Board. Yeah.
 18 Q When was that?
 19 A That was when I was vice president, I want to say '8 to
 20 '10.
 21 Q 2008 to 2010?
 22 A Yeah. Something like that.
 23 Q And, when were you vice president from?
 24 A The same.
 25 Q The same thing? And, why did you stop being vice

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1 president of Local 840?

2 A I ran for president and I didn't make it.

3 Q And, when did you serve as an instructor for Local 840?

4 A The first graduating class, it was like 2007 to -- '7 to

5 '12.

6 Q Okay. And, why did you stop being an instructor for the

7 company -- for the union? Sorry.

8 A They didn't want me to be an instructor any more. When

9 Mike took over, he didn't want me to be an instructor.

10 Q Was that Mike Davis's decision or was it made by the

11 Executive Board?

12 A No. It was made -- The Executive Board didn't even know.

13 Q How did it come about? Was this one person's decision

14 that you're no longer an instructor?

15 A Mike and two other people, Clark Culver and Mike Smith.

16 Q Okay.

17 A They are the JATC.

18 Q Okay. Were you paid for being an instructor?

19 A Was I paid?

20 Q Yeah.

21 A Yes.

22 Q Okay.

23 JUDGE CHU: What do those initials stand for?

24 THE WITNESS: What do you mean, JATC?

25 JUDGE CHU: Yeah.

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1 THE WITNESS: Joint Apprentice Training Program.

2 MS. SELLERS: That's all.

3 JUDGE CHU: Quick question. You testified that you

4 started initially getting pay checks from Newark Electric 2.0?

5 THE WITNESS: Yeah. The first -- I want to say the first

6 couple of weeks or month that I was there, I got Newark

7 Electric 2.0.

8 JUDGE CHU: And, you recall what month or year that

9 happened?

10 THE WITNESS: I started -- I think I started in 2010

11 around Labor Day -- not Labor Day, Memorial Day. I think it

12 was the week after Memorial Day I started. They needed help

13 electric-fitting the Walmart and I went to work for them.

14 JUDGE CHU: And, after those few pay checks, you started

15 getting pay checks from --

16 THE WITNESS: Colacino Industries.

17 JUDGE CHU: -- Colacino Industries.

18 THE WITNESS: That's correct.

19 JUDGE CHU: Okay. Any redirect?

20 MR. TREVETT: No, Judge. Thank you.

21 JUDGE CHU: All right. Thank you, Mr. Barra. Don't

22 discuss your testimony with anybody outside this proceeding,

23 except for your legal representative. All right? Thank you.

24 Off the record.

25 (Whereupon, the witness was excused.)

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1 (Whereupon, a recess was taken.)

2 JUDGE CHU: Who's your next witness?

3 MR. TREVETT: Richard Colacino.

4 JUDGE CHU: Mr. Colacino, raise your right hand. I'll

5 swear you in as a witness.

6 Whereupon,

7 RICHARD COLACINO

8 Having been first duly sworn, was called as a witness herein

9 and testified as follows:

10 JUDGE CHU: All right. Can you state for the record your

11 full name?

12 THE WITNESS: Richard Colacino.

13 COURT REPORTER: Spell your last name, please?

14 JUDGE CHU: Spell your last name.

15 THE WITNESS: C-o-l-a-c-i-n-o.

16 JUDGE CHU: It's best if you talk into the mic. Okay?

17 THE WITNESS: Okay.

18 JUDGE CHU: All right. Your witness.

19 MR. TREVETT: Thank you, Judge.

20 DIRECT EXAMINATION

21 BY MR. TREVETT:

22 Q Mr. Colacino, are you currently employed by anyone?

23 A Yes, I am.

24 Q Who?

25 A Colacino Industries.

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1 Q All right. And, what do you do for Colacino Industries?

2 A I'm an estimator and project manager.

3 Q Is that a full time job?

4 A Yes.

5 Q Do you do any other work for any -- any outside work

6 besides that?

7 A I'm a town supervisor in the Town of Arcadia and I'm on

8 the Wayne County Board of Supervisors.

9 Q Now, how long have you worked for Colacino Industries?

10 A Since it was formed, you know, probably around -- around

11 2000, probably.

12 Q Okay. Prior to coming to work for Colacino Industries,

13 what did you do?

14 A I was the, you know, the owner of Newark Electric

15 Corporation.

16 Q When was Newark Electric Corporation formed?

17 A I believe, about 1979.

18 Q Were you the sole owner?

19 A Yes.

20 Q Did your son James Colacino ever have any ownership

21 interest in that company?

22 A No.

23 Q Did he ever hold any positions, office or positions like

24 president or anything like that?

25 A No.

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1 Q Did he ever work for you?
 2 A Yes, he did.
 3 Q What did he do when he worked for you?
 4 A He was electrician and he worked on controls, you know,
 5 electrical contracting, so he did a full spectrum of electrical
 6 work.
 7 MR. TREVETT: Before I go further. We're up to
 8 Respondent Exhibit 5?
 9 COURT REPORTER: Yes.
 10 JUDGE CHU: Yes.
 11 MR. TREVETT: Thank you.
 12 BY MR. TREVETT:
 13 Q Okay. You've been handed what is Respondent Exhibit 5.
 14 Do you see that? You have to say yes or no for the record.
 15 A Yes.
 16 Q Now, on the second page, the signature at the bottom, do
 17 you recognize that?
 18 A Yes.
 19 Q Whose signature is that?
 20 A Mine.
 21 Q Okay. And, what is this document?
 22 A The structure of the corporation, of Newark Electric.
 23 Q This is for your company then?
 24 A Yes, it was.
 25 Q And, this is a true and accurate copy of that business

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1 A To my son Jim.
 2 Q Okay. And, it included -- What did that sale of assets
 3 include?
 4 A Everything. The good will, the logo, the trucks, all the
 5 equipment. He just took over the complete business.
 6 Q Okay. As we sit here today, has Newark Electric, has
 7 that's been dissolved?
 8 A Yes, it has been.
 9 Q Do you recall being in a meeting on February 24th of 2011,
 10 at which time a letter of assent was signed between the company
 11 and Local 840?
 12 A The local?
 13 Q 840, the union.
 14 A No, I don't. I don't believe so.
 15 MR. TREVETT: Okay. Could I show him General Counsel's
 16 6?
 17 JUDGE CHU: Give that back to the reporter.
 18 BY MR. TREVETT:
 19 Q All right. Do you see this three-page document, sir?
 20 A Yes.
 21 Q Take a look at that if you could for me, please. Do you
 22 recognize this document at all?
 23 A No. I don't -- I don't believe I've ever seen it, myself.
 24 I don't remember seeing it.
 25 Q All right. On the second page there's a reference to

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1 document?
 2 A Yes.
 3 MR. TREVETT: I offer Respondent 5.
 4 MS. SELLERS: No objection.
 5 JUDGE CHU: Thank you. Marked and admitted.
 6 (Respondent's K-5 identified and received.)
 7 BY MR. TREVETT:
 8 Q Now at any point in time, were there any other owners of
 9 Newark Electric Corporation other than yourself?
 10 A No.
 11 Q Were there any other officers in Newark Electric
 12 Corporation other than yourself?
 13 A No.
 14 Q Was anybody other than you authorized to sign contracts
 15 and agreements?
 16 A No.
 17 Q All right. Is Newark Electric Corporation still an active
 18 corporation today?
 19 A No, it's not.
 20 Q When did it stop being active?
 21 A I believe around the year 2000, probably.
 22 Q At some point in time did you sell the assets of that
 23 company?
 24 A Yes, I did.
 25 Q To whom did you sell them?

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1 Newark Electric. Do you see that?
 2 A Yes.
 3 Q And, there's also a reference to 126 Harrison Street.
 4 A Yes.
 5 Q Was your company ever located at 126 Harrison Street?
 6 A No. We were at -- When I owned the company, it was at 131
 7 Harrison Street.
 8 Q Okay. And, did you enter -- Did you enter into this
 9 agreement at all, or was your company part of this agreement as
 10 far as you know?
 11 A No. As far as I know, I don't -- I don't know. I don't
 12 remember seeing the document or looking at it before. I don't
 13 remember. It's been quite a while ago, I guess.
 14 MR. TREVETT: Thank you. Could I have just a minute?
 15 (Pause.)
 16 MR. TREVETT: I have no further questions, Your Honor.
 17 Thank you.
 18 JUDGE CHU: Thank you. Cross-examination of this witness,
 19 please. Hold onto that document.
 20 CROSS-EXAMINATION
 21 BY MS. SELLERS:
 22 Q Mr. Colacino, I'm Ms. Sellers. I represent General
 23 Counsel. You dissolved Newark Electric, when did you say?
 24 A Oh, boy.
 25 Q Was it a recent thing or did you dissolve it back in 2000?

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1 A I'm just trying to think.
 2 Q According to the New York State Department of State
 3 website, your company, Newark Electric Corp., was dissolved on
 4 April 3rd, 2013. Does that sound reasonable?
 5 A Yeah. You know, it does. Yes. Yeah.
 6 Q If your company stopped doing business in 2000, do you
 7 know why it wasn't dissolved until 2013?
 8 A At the time, I had some taxes, some back taxes and that
 9 was the reason why we couldn't dissolve it at that time.
 10 Q When did you finish paying off those back taxes?
 11 A The accountants took care of that. I'm not sure when,
 12 but, you know, it had to be fairly recently. But, I don't have
 13 the exact date. But, that sound -- What was that date you just
 14 said?
 15 Q April 3rd, 2013.
 16 A Yeah. It's about when it was. Yeah.
 17 MS. SELLERS: I have nothing further.
 18 JUDGE CHU: Any redirect?
 19 MR. TREVETT: No, Your Honor. Thank you.
 20 JUDGE CHU: Thank you, Mr. Colacino. You're excused as a
 21 witness. Do not discuss your testimony with anybody other than
 22 your representative. All right? Don't talk about your
 23 testimony --
 24 THE WITNESS: Oh, okay.
 25 JUDGE CHU: -- with anybody. All right?

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1 MR. TREVETT: Thank you.
 2 DIRECT EXAMINATION
 3 BY MR. TREVETT:
 4 Q Ms. Bliss, by whom are you employed?
 5 A Colacino Industries.
 6 Q How long have you been employed by Colacino Industries?
 7 A Since 2003, January.
 8 Q Has that been continuous employment?
 9 A Yes. Well -- Yes.
 10 Q Were there any gaps in that employment?
 11 A Six months I wasn't there in 2011.
 12 Q And, about what time in 2011 was that six months?
 13 A Beginning of March 2011 until October.
 14 Q Now, what are your job duties at Colacino Industries?
 15 A Office manager, accounts payable, accounts receivable,
 16 purchasing, inventory, customer service.
 17 Q Now, I'm going to ask you, do you know Mr. Mike Davis?
 18 A Yes.
 19 Q And, how is it you know Mr. Davis?
 20 A He used to call the shop and come to the shop to see Jim
 21 regarding joining the union.
 22 Q I want to focus your attention on 2010 and up into 2011
 23 before you left for that gap. How frequently did you observe
 24 that Mr. Davis would be contacting Mr. Colacino?
 25 MS. MATTHEW: Objection on relevance.

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1 THE WITNESS: Right.
 2 JUDGE CHU: Thank you.
 3 (Whereupon, the witness was excused.)
 4 MR. TREVETT: I have one more witness and if I could have
 5 just a couple of minutes before I call her, please?
 6 JUDGE CHU: Go ahead. Five.
 7 MR. TREVETT: Thank you.
 8 JUDGE CHU: Off the record.
 9 (Whereupon, a recess was taken.)
 10 JUDGE CHU: Who's your next witness, counsel?
 11 MR. TREVETT: Vicky Bliss.
 12 JUDGE CHU: Ms. Bliss, let me just swear you in as a
 13 witness. I'm Judge Chu presiding over this matter. Raise your
 14 right hand, please.
 15 Whereupon,
 16 VICKY BLISS
 17 Having been first duly sworn, was called as a witness herein
 18 and testified as follows:
 19 JUDGE CHU: You need to speak up and you can do so by
 20 speaking into the microphone.
 21 THE WITNESS: Okay.
 22 JUDGE CHU: Just state for the record your full name and
 23 spell your last name, please.
 24 THE WITNESS: Vicky Bliss. B-l-i-s-s.
 25 JUDGE CHU: Thank you. All right. Your witness, please.

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1 MR. TREVETT: Well, again, we have some defenses about
 2 duress and so forth and so on, it goes to those, Your Honor.
 3 JUDGE CHU: I'll allow it. It goes into some of your
 4 defenses. Go ahead.
 5 THE WITNESS: He would typically call the shop once,
 6 sometimes twice, three times a day. He would come to the shop
 7 and sometimes stop at the front office to see if Jim was in his
 8 office or not. Sometimes, he would come back -- My office is
 9 in the back corner, he would come back and I would go see if
 10 Jim was in his office. Sometimes, he would just go right past
 11 us, go up to Jim's office if we were busy doing something. He
 12 would call sometimes, two, three times a day, say, I've been
 13 trying to get hold of Jim. I've been calling him, texting him.
 14 I think he's avoiding me. Is he in? And, there would be times
 15 when Jim would be out on a job or in meetings. But, it got to
 16 be very frequent toward the end of 2010 and 2011, that he would
 17 come to the shop.
 18 BY MR. TREVETT:
 19 Q Now, other than coming into the shop, did you ever observe
 20 him on the premises?
 21 A Yes.
 22 Q And, how did you observe him?
 23 A There was one time he came into the shop and Jim wasn't
 24 in, he was out on a job. Mr. Davis went and sat out in the
 25 parking lot in his pick-up truck and waited in the parking lot

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1 for Jim to come back. And, he sat out there for probably about
 2 an hour, hour and a half, it not longer, just waiting.
 3 Q Did that happen on just one occasion?
 4 A We saw him in the parking lot on several occasions.
 5 Q And, you said that behavior became more frequent?
 6 A Well, the calling and the stopping to the shop, yes.
 7 Q Did you observe anything else with respect to Mr. Davis
 8 contacting or trying to contact Mr. Colacino?
 9 A When Mike would call the shop or stop, he'd say, hey, I've
 10 been trying to get ahold of Jim, you know, I've got some
 11 important things to go over with him. He's not answering my
 12 phone calls. And, if Jim was on a job or in a meeting, I would
 13 just relay the message and I always, you know, told Mike that I
 14 would let Jim know that he had stopped or called, but, you
 15 know.
 16 Q Did Mr. Davis ever talk to you about the reasons for his
 17 visits?
 18 A Well, I was in the office a couple of times when Mike came
 19 in to talk to Jim about trying to get him to join the union.
 20 Q And, how would you characterize Mr. Davis's conversations?
 21 A He seemed to be friendly, but persuasive, you know, he had
 22 said to Jim, just try it and see if it works for you. Try it
 23 for six months and if it doesn't work, then --
 24 Q And, how long did this course of conduct go on for, what
 25 was the duration?

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1 A Several months.
 2 Q Okay. Now, at the time -- At the time you left in 2011,
 3 you said you left for a period of six months; is that right?
 4 A Yes. I had my own business and I was doing that full
 5 time. I still helped Jim out occasionally and, then, I came
 6 back part time and, then, there was a change of employment in
 7 the office and he asked me to come back full time and I did.
 8 Q At the time you left -- Well, first of all, let me ask you
 9 this. Are you aware of a company called Newark Electric 2.0?
 10 A Yes.
 11 Q At the time you left to go concentrate on your own
 12 business, was -- Newark Electric 2.0 was that in existence yet?
 13 A The paperwork was just getting started in its creation,
 14 but I wasn't involved -- Well, I was gone when Newark Electric
 15 2.0 was operating.
 16 Q When you returned -- So, you returned. What month and
 17 year did you return?
 18 A October.
 19 Q Of 2011?
 20 A Yes.
 21 Q At that point in time was Newark Electric 2.0, did it --
 22 Withdraw that.
 23 When you returned in October of 2011, what were your job
 24 duties?
 25 A I went back to accounts payables, receivables for Colacino

1 Industries.
 2 Q Did your duties involve any payroll work?
 3 A No.
 4 Q Did you oversee anybody who did the payroll?
 5 A Yes.
 6 Q When you came back in October of 2011, do you know whether
 7 or not Newark Electric 2.0 had any employees being paid?
 8 A No, they did not.
 9 Q And, since you've come back in October of 2011, has Newark
 10 Electric 2.0 had any employees that ever got paid --
 11 A No.
 12 Q -- That you're aware of?
 13 A No.
 14 Q Are you aware of employees being paid through Colacino
 15 Industries?
 16 A Yes.
 17 Q Are you aware of employees working for Mr. Colacino being
 18 paid through any other company or entity?
 19 A No. Just Colacino Industries.
 20 MR. TREVETT: Can I have a minute, Judge?
 21 (Pause.)
 22 MR. TREVETT: All right. Judge, I have nothing further
 23 at this time. Thank you.
 24 JUDGE CHU: Thank you. Cross-examination of this witness,
 25 please.

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1 MS. SELLERS: I don't have any questions for this witness.
 2 JUDGE CHU: Thank you. Ms. Bliss, you're excused as a
 3 witness. Do not discuss your testimony with anybody other than
 4 your attorney. All right?
 5 THE WITNESS: Okay.
 6 JUDGE CHU: Thank you.
 7 THE WITNESS: Thank you.
 8 JUDGE CHU: You're free to go.
 9 (Whereupon, the witness was excused.)
 10 JUDGE CHU: Ms. Sellers, I recall you saying that you
 11 reserve the opportunity to recall Mr. Davis, if you deem it
 12 necessary based on your review of the subpoena document. What
 13 are your intentions at this time?
 14 MS. SELLERS: I would like to call Mr. Davis at this time.
 15 JUDGE CHU: Mr. Davis, can you come back up? Let me swear
 16 you in as a witness again. Raise your right hand, please.
 17 Whereupon,
 18 MICHAEL DAVIS
 19 Having been first duly sworn, was called as a witness herein
 20 and testified as follows:
 21 JUDGE CHU: Thank you. Have a seat. Again, state for the
 22 record your full name.
 23 THE WITNESS: Michael L. Davis.
 24 JUDGE CHU: Thank you. Ms. Sellers, your witness.
 25 DIRECT EXAMINATION

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1 BY MS. SELLERS:
 2 Q Mr. Davis, you were here when Mr. Colacino testified,
 3 correct?
 4 A Correct.
 5 Q And, you heard Mr. Colacino testify that there was a
 6 conversation at some point after the signing of the July 20th,
 7 2011 letter of assent C, where you called him or contacted him
 8 in some form and informed him that you had re-dated the July --
 9 I'm sorry -- the February 24th, 2011 letter of assent C to the
 10 July 20th date. In other words, that you had re-dated the
 11 Newark Electric letter of assent C to match the Colacino
 12 Industries letter of assent C.
 13 MR. TREVVEIT: I'm going to object. I don't know how this
 14 goes to the subpoena documents. He's already testified on
 15 direct about this.
 16 JUDGE CHU: What you're doing is asking that Mr. Davis be
 17 a rebuttal witness.
 18 MS. SELLERS: Oh, okay. I'm sorry.
 19 JUDGE CHU: Your reservation to recall him yesterday was
 20 because it was based on your review of the subpoena documents.
 21 MS. SELLERS: I thought I reserved him for both. I
 22 apologize.
 23 JUDGE CHU: I don't think so. But, I don't have a problem
 24 with it. I'll allow this line of testimony. Objection is
 25 noted, but it's overruled. Go ahead.

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1 Q Okay.
 2 A But, the letter of assent A happens all the time. I have
 3 companies that are subsidiaries of companies, that are
 4 subsidiaries of companies that are all signatory.
 5 JUDGE CHU: If it was okay, why did you need approval?
 6 THE WITNESS: Cause it was a letter of assent C. It's
 7 never been done with a letter of assent C prior. It had been
 8 done with letters of assent A and I was just making sure I
 9 covered all what I was supposed to do.
 10 JUDGE CHU: So, you wouldn't know until you --
 11 THE WITNESS: Until I asked.
 12 JUDGE CHU: -- asked. Of assent C, right?
 13 THE WITNESS: Yes.
 14 JUDGE CHU: All right. Continue.
 15 BY MS. SELLERS:
 16 Q Now, Mr. Colacino also testified when being questioned by
 17 Mr. Trevvett, that he had multiple conversations with you where
 18 he told you he was going to sign the letter of assent C for
 19 this -- for a second company. Did he ever identify to you what
 20 the name of that second company was?
 21 A No.
 22 Q Okay. What did you believe -- What did you say to Mr.
 23 Colacino when he told you that he wanted to create two separate
 24 companies?
 25 A It was discussed on multiple occasions and he wanted a

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1 BY MS. SELLERS:
 2 Q So, Mr. Davis, Mr. Colacino testified that the letter of
 3 assent C that was signed in -- for Newark Electric in February
 4 24th, 2011, that you called him and informed him that it had
 5 been re-dated to match the letter of assent C that was signed
 6 for Colacino Industries on July 20th, 2011. Did you ever call
 7 Mr. Colacino and tell him that you re-dated the letter of
 8 assent C from February 24th, 2011?
 9 A No, I did not.
 10 Q Would you have ever called him and told him that?
 11 A No, I would not.
 12 MR. TREVVEIT: Objection.
 13 JUDGE CHU: Calls for speculation.
 14 MR. TREVVEIT: Yeah.
 15 BY MS. SELLERS:
 16 Q Are companies allowed to have two letters of assent?
 17 A Yes.
 18 Q Are companies allowed to have two letters of assent C?
 19 A The two letters of assent C was what we questioned at the
 20 beginning.
 21 Q Okay.
 22 A I mean, I had to call and ask the International for that
 23 to happen and they didn't have a problem with it, so I would
 24 assume that if they didn't have a problem with it, then, it's
 25 okay.

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1 union company and a non-union company and I always reiterated
 2 that there was no way that the IBEW would be a party to that.
 3 We do not allow double breasting.
 4 Q And, what was your understanding at all times what
 5 accompany Mr. Colacino was signing up for to become part of the
 6 collective bargaining agreement?
 7 A At all times the way I understood it, it was Newark
 8 Electric. That's all I've ever known.
 9 Q You weren't aware of Newark Electric 2.0?
 10 A When it hit my desk in April when it said to do business
 11 in NEC 2.0. In my brain, I can still remember looking at that
 12 and going, what the hell is Newark Electric 2.0, NEC 2.0.
 13 Q And, that's April of 2012?
 14 A That's correct.
 15 MS. SELLERS: One minute. If I could just have one
 16 minute, Your Honor.
 17 JUDGE CHU: Sure. Could you please clarify just the
 18 testimony you just gave. In all your discussions, the second
 19 company was never identified?
 20 THE WITNESS: I never knew what second company he was
 21 going to sign up. He'd always put it to me that he had several
 22 companies. I have different companies. I have this. You
 23 know, it never was relevant to me because I only understood
 24 everything to work, that when he did electrical work, he had to
 25 do it under our banner, that was part of the collective

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1 bargaining agreement. It was the only one that interested me.
 2 JUDGE CHU: He never mentioned Colacino Industries?
 3 THE WITNESS: Yeah. He did mention that he had that
 4 company. I might have said it improperly. But, he never
 5 mentioned that that would be the company he'd be signing with.
 6 JUDGE CHU: That's in fact what happened, right?
 7 THE WITNESS: Yes.
 8 JUDGE CHU: He did do a letter of assent C --
 9 THE WITNESS: Yes.
 10 JUDGE CHU: -- for --
 11 THE WITNESS: Yes.
 12 JUDGE CHU: -- Colacino.
 13 THE WITNESS: Yes.
 14 JUDGE CHU: And, how did that come about?
 15 THE WITNESS: When I went to his office, he was having a
 16 bookkeeping issue and could he sign. I said, let me check. I
 17 checked. And, then, he told me what company it was, I went and
 18 made the paperwork, came back and he signed.
 19 JUDGE CHU: And, you had no problem with that because it
 20 would have been more union members.
 21 THE WITNESS: Correct. More -- I mean, they had no
 22 problem with it. The only electrician they had were
 23 electricians he was using of ours anyway. It was the way I
 24 said it. It was from the outgo, it was an accounting function
 25 that he wanted to make easier for his accountant.

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1 JUDGE CHU: I know you testified to this yesterday, but
 2 can you just restate as to whether or not there were any
 3 discussions about Newark Electric or Newark Electric 2.0's
 4 letter of assent C?
 5 THE WITNESS: Prior to that, no, because I never knew
 6 there was a Newark Electric 2.0 until it hit my desk.
 7 JUDGE CHU: Was there ever any discussion that the letter
 8 of assent C from Newark Electric would fold into the letter of
 9 assent for --
 10 THE WITNESS: No. There was --
 11 JUDGE CHU: -- Colacino Industries?
 12 THE WITNESS: There was never discussion on that.
 13 JUDGE CHU: Ms. Sellers already asked you, you never had a
 14 conversation with Mr. Colacino within a 30 day period after
 15 signing off on Colacino Industries' letter of assent about re-
 16 dating anything?
 17 THE WITNESS: No.
 18 JUDGE CHU: Was there ever any conversation within that 30
 19 day time frame at all?
 20 THE WITNESS: No. Quite honestly, Judge, every time I'd
 21 call I'd talk to Vicky Bliss and I wouldn't get to talk to
 22 anybody. All those visits, some of those visits when he was
 23 signatory, I would wait outside. I just never had a chance to
 24 speak to the man from time to time.
 25 JUDGE CHU: I'm talking about after you signed off on the

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1 letter of assent C with Colacino Industries, did you have a
 2 conversation concerning any of those two letters?
 3 THE WITNESS: No. Strictly an accounting function.
 4 JUDGE CHU: Thank you. Continue.
 5 MS. SELLERS: I have no further questions.
 6 JUDGE CHU: Thank you. Cross-examination of this witness?
 7 MR. TREVETT: I want to talk to my client for a minute.
 8 Thank you, Judge.
 9 JUDGE CHU: Take five minutes. Off the record.
 10 (Whereupon, a recess was held.)
 11 JUDGE CHU: Let's go on the record. Just a couple of
 12 housekeeping matters and, then, we can conclude the trial
 13 today.
 14 There are no other questions for Mr. Davis. I've
 15 dismissed him as a witness at this point.
 16 As far as the exhibits are concerned, the Acting General
 17 Counsel will work on redacting the privacy matters and,
 18 specifically, the Social Security numbers and probably the
 19 private resident addresses.
 20 MS. SELLERS: Yes. Definitely.
 21 JUDGE CHU: Thank you. Also, I made a time frame for
 22 closing briefs. I was looking at October 1st which is a little
 23 bit more than -- I think it's just around 35 days.
 24 MS. SELLERS: Okay.
 25 JUDGE CHU: All right?

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1 MR. TREVETT: How soon can we have a transcript, sir?
 2 COURT REPORTER: Ten days.
 3 MR. TREVETT: Okay.
 4 JUDGE CHU: You can ask for an expedite. I know some
 5 attorneys do overnight transcripts. It's up to you.
 6 MR. TREVETT: I'm not that anxious.
 7 JUDGE CHU: All right. And, I think that's all I have for
 8 housekeeping matters. Is there any else?
 9 All right. Then, I'll declare this proceeding closed at
 10 this time. I thank everybody for their cooperation in
 11 expediting this trial. Thank you for your professionalism,
 12 too. All right.
 13 MR. TREVETT: Thank you, Judge.
 14 MS. SELLERS: Thank you, Your Honor.
 15 JUDGE CHU: Off the record, please.
 16 (Whereupon, at 4:09 p.m., the hearing in the above-entitled
 17 matter was closed.)

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C E R T I F I C A T E

This is to certify that the attached proceedings done before
the NATIONAL LABOR RELATIONS BOARD REGION THREE

In The Matter of:

NEWARK ELECTRIC CORP, NEWARK ELECTRIC 2.0, INC. AND
COLACINO INDUSTRIES, INC., a single employer and/or alter
egos,

And

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS,
LOCAL 840.

WORD INDEX

Case No. 3-CA-086127

Date: August 27, 2013

Place: Buffalo, New York

Were held as therein appears, and that this is the original
transcript thereof for the files of the Board.


Official Reporter

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In The Matter Of:

*NEWARK ELECTRIC, CORP., N E 2.0, INC &
COLACINO IND. n
FEDERATION OF ARMORED CAR WORKERS*

*Vol. 2
August 27, 2013*

*Burke Court Reporting, LLC
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Wayne, NJ 0747
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Minelli, G. & Vini, R.

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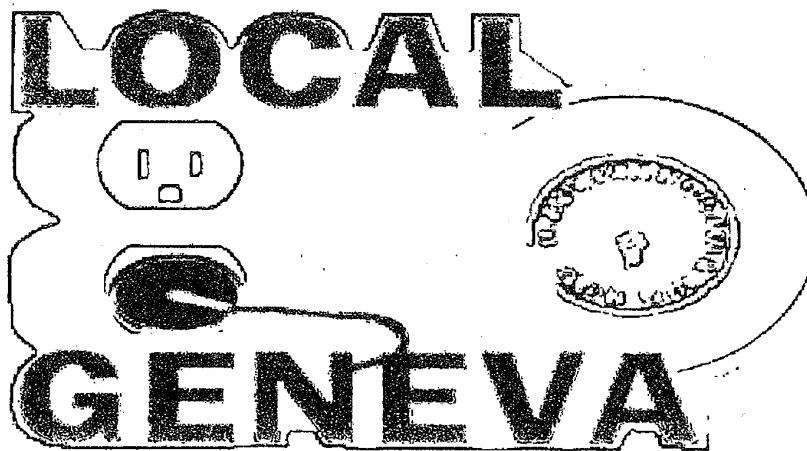
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LABOR AGREEMENT

CONSTRUCTION



**LOCAL UNION #840, INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS**

And

FINGER LAKES CHAPTER, N.E.C.A., INC.

January 1, 2011 through May 31, 2012

AGREEMENT

AGREEMENT BY AND BETWEEN THE FINGER LAKES NY CHAPTER NECA OF THE NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION (NECA) AND LOCAL UNION NO. 840 (IBEW).

IT SHALL APPLY TO ALL FIRMS WHO SIGN A LETTER OF ASSENT TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

AS USED HEREINAFTER IN THIS AGREEMENT, THE TERM "CHAPTER" SHALL MEAN THE FINGER LAKES NY CHAPTER OF NECA AND THE TERM "UNION" SHALL MEAN LOCAL UNION NO. 840, IBEW.

The term "Employer" shall mean an individual firm who has been recognized by an assent to this Agreement.

BASIC PRINCIPLES

The Employer and the Union have a common and sympathetic interest in the Electrical Industry. Therefore, a working system and harmonious relations are necessary to improve the relationship between the Employer, the Union, and the Public. Progress in industry demands a mutuality of confidence between the Employer and the Union. All will benefit by continuous peace and by adjusting any differences by rational, common-sense methods. Now, therefore, in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

ARTICLE I

EFFECTIVE DATE:

Section 1.01. This Agreement shall take effect June 1, 2010, and shall remain in effect until May 31, 2012 unless otherwise specifically provided for herein. It shall continue in effect from year to year thereafter, from June 1 through May 31 of each year, unless changed or terminated in the way later provided herein.

CHANGES:

Section 1.02(a). Either party or an Employer withdrawing representation from the Chapter or not represented by the Chapter, desiring to change or terminate this Agreement must provide written notification at least 90 days prior to the expiration date of the Agreement or any anniversary date occurring thereafter.

(b). Whenever notice is given for changes, the nature of the changes desired must be specified in the notice, or no later than the first negotiating meeting unless mutually agreed otherwise.

(c). The existing provisions of the Agreement, including this Article, shall remain in full force and effect until a conclusion is reached in the matter of proposed changes.

(d). Unresolved issues or disputes arising out of the failure to negotiate a renewal or modification of this agreement that remain on the 20th of the month preceding the next regular meeting of the Council on Industrial Relations for the Electrical Contracting Industry (CIR) may be submitted jointly or unilaterally to the Council for adjudication. Such unresolved issues or disputes shall be submitted no later than the next regular meeting of the Council following the expiration date of this agreement or any subsequent anniversary date. The Council's decisions shall be final and binding.

(e). When a case has been submitted to the Council, it shall be the responsibility of the negotiating committee to continue to meet weekly in an effort to reach a settlement on the local level prior to the meeting of the Council.

(f). Notice of a desire to terminate this Agreement shall be handled in the same manner as a proposed change.

Section 1.03. This Agreement shall be subject to change or supplement at any time by mutual consent of the parties hereto. Any such change or supplement agreed upon shall be reduced to writing, signed by the parties hereto, and submitted to the International Office of the IBEW for approval, the same as this Agreement.

Section 1.04. There shall be no stoppage of work either by strike or lockout because of any proposed changes in this Agreement or dispute over matters relating to this Agreement. All such matters must be handled as stated herein.

GRIEVANCES/DISPUTES:

Section 1.05. There shall be a Labor-Management Committee of three representing the Union and three representing the Employers. It shall meet regularly at such stated times as it may decide. However, it shall also meet within 48 hours when notice is given by either party. It shall select its own Chairman and Secretary. The Local Union shall select the Union representatives and the Chapter shall select the management representatives.

Section 1.06. All grievances or questions in dispute shall be adjusted by the duly authorized representative of each of the parties to this Agreement. In the event that these two are unable to adjust any matter within 48 hours, they shall refer the same to the Labor-Management Committee.

Section 1.07. All matters coming before the Labor-Management Committee shall be decided by a majority vote. Four members of the Committee, two from each of the parties hereto, shall be a quorum for the transaction of business, but each party shall have the right to cast the full vote of its membership and it shall be counted as though all were present and voting.

Section 1.08. Should the Labor-Management Committee fail to agree or to adjust any matter, such shall then be referred to the Council on Industrial Relations for the Electrical Contracting Industry for adjudication. The Council's decisions shall be final and binding.

Section 1.09. When any matter in dispute has been referred to conciliation or arbitration for adjustment, the provisions and conditions prevailing prior to the time such matters arose shall not be changed or abrogated until agreement has been reached or a ruling has been made.

Section 1.10. Any grievance not brought to the attention of responsible opposite parties to this Agreement in writing within ten (10) working days of its occurrence shall be deemed to no longer exist.

ARTICLE II EMPLOYER RIGHTS/UNION RIGHTS

Section 2.01. As used in this Agreement, the term "Employer" is defined to mean any person, firm or corporation whose main business is that of an electrical contractor, engaged as an Employer in the erecting, altering, installing, repairing, servicing, or maintaining of electrical wiring, devices, appliances or equipment, and also the purchasing of suppliers and the selling of manufactured parts and products incorporated in such installations.

The following qualifications shall also be required of the Employer:

The Employer must have adequate technical knowledge and business experience. The Employer must maintain suitable financial status within the jurisdiction of this Agreement to meet payroll and fringe benefit requirements.

The Employer must maintain a place of business with a business telephone open to the public during normal business hours, shall have proper signs on his trucks and job sites where practical, and shall employ not less than one journeyman continuously. Only one member of any Firm, Partnership or Corporation may perform work with tools.

MANAGEMENT RIGHTS:

Section 2.02. The Union understands the Employer is responsible to perform the work required by the owner. The Employer shall, therefore, have no restrictions except those specifically provided for in the collective bargaining agreement, in planning, directing and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees, in transferring employees from job to job within the Local Union's geographical jurisdiction, in determining the need and number as well as the person who will act as Foreman, in requiring all employees to observe the Employer's and/or owner's rules and regulations not inconsistent with this Agreement, in requiring all employees to observe all safety regulations, and in discharging employees for proper cause.

FOREMAN CALL-OUT BY NAME:

Section 2.03. The employer shall have the right to call a Foreman by name provided:

- A) The employee has not quit his previous employer within the past two weeks.
- B) The employer shall notify the business manager in writing of the name of the individual who is to be requested for employment as a Foreman. Upon such request, the business manager shall refer said Foreman provided the name appears on the highest priority group.
- C) When an employee is called as a Foreman, he must remain as a Foreman for 500 hours or must receive a reduction in force.

WORKERS COMPENSATION INSURANCE:

Section 2.04. For all employees covered by this Agreement, the Employer shall carry Workers' Compensation Insurance, with a company authorized to do business in this state; Social Security; and such other protective insurance as may be required by the laws of the state in which the work is performed. He shall also make voluntary contributions to the State Unemployment Compensation Commission regardless of the number of employees.

UNION RECOGNITION:

Section 2.05 (a). The Employer recognizes the Union as the sole and exclusive representative of all its employees performing work within the jurisdiction of the Union for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

(b). The Employer understands that the Local Union's jurisdiction—both trade and territorial—is not a subject for negotiations but rather is determined solely within the IBEW by the International President and, therefore, agrees to recognize and be bound by such determinations.

WORK PRESERVATION:

Section 2.06 (a). In order to protect and preserve, for the employees covered by this Agreement, all work heretofore performed by them, and in order to prevent any device or subterfuge to avoid the protection and preservation of such work, it is hereby agreed as follows: If and when the Employer shall perform any on-site construction work of the type covered by this Agreement, under its own name or under the name of another, as a corporation, company, partnership, or any other business entity including a joint venture, wherein the Employer, through its officers, directors, partners, or stockholders, exercises either directly or indirectly, management control or majority ownership, the terms and conditions of this Agreement shall be applicable to all such work. All charges or violations of this Section shall be considered as a dispute and shall be processed in accordance with the provisions of this Agreement covering the procedure for the handling of grievances and the final and binding resolution of disputes.

(b). As a remedy for violations of this Section, the Labor-Management Committee, the Council on Industrial Relations for the Electrical Contracting Industry, and/or an independent arbitrator, as the case may be, are empowered, in their discretion and at the request of the Union, to require an Employer to (1) pay to affected employees covered by this Agreement, including registered applicants for employment, the equivalent of wages lost by such employees as a result of the violations; and (2) pay into the affected joint trust funds established under this Agreement any delinquent contributions to such funds which have resulted from the violations. Provision for this remedy herein does not make such remedy the exclusive remedy available to the Union for violation of this Section nor does it make the same or other remedies unavailable to the Union for violations of other Sections or other Articles of this Agreement.

(c). If, as a result of violations of this Section, it is necessary for the Union and/or the Trustees of the joint trust funds to institute court action to enforce an award rendered in accordance with subsection (b) above, or to defend an action which seeks to vacate such award, the Employer shall pay any accountants' and attorneys' fees incurred by the Union and/or Fund Trustees, plus cost of the litigation, which have resulted from the bringing of such court action.

NON-RESIDENT EMPLOYEES: (Portability)

Section 2.07. An Employer signatory to a collective bargaining agreement or to a letter of assent to an agreement with another IBEW Local Union, who signs an assent to this Agreement, may bring up to four bargaining unit employees employed in that Local Union's jurisdiction into this Local's jurisdiction and up to two bargaining unit employees per job from that Local's jurisdiction to this Local's jurisdiction for specialty or service and maintenance work. All charges of violations of this section shall be considered as a dispute and shall be processed in accordance with the provisions of this agreement for the handling of grievances with the exception that any decision of a local labor-management committee that may be contrary to the intent of the parties to the National Agreement on Employee Portability, upon recommendation of either or both the appropriate IBEW International Vice President or NECA Regional Executive Director, is subject to review, modification, or rescission by the Council on Industrial Relations.

FAVORED NATIONS:

Section 2.08. The Union agrees that if, during the life of this Agreement, it grants to any other Employer in the Electrical Contracting Industry on work covered by this Agreement, any better terms or conditions than those set forth in this Agreement, such better terms or conditions shall be made available to the Employer under this Agreement and the Union shall immediately notify the Employer of any such concession.

Section 2.09. No workman subject to employment of Employers operating under this Agreement shall himself become a contractor for the performance of any electrical work. Avoidance of the intent of the Section shall not be permitted by pretense of ownership of the business by an immediate member of the family.

Section 2.10. Workmen shall install all electrical work in a safe and workmanlike manner, and in accordance with the directions.

APPOINTMENT OF STEWARDS:

Section 2.11. The Union has the right to appoint Stewards at any shop and/or any job where workers are employed under the terms of this Agreement. The Employer shall be notified and furnished the

name of the Steward. Such Stewards shall be allowed sufficient time during the regular working hours without loss of pay to see that the terms and conditions of this Agreement are observed at the shop or on the job. No Steward shall be discriminated against by any Employer because of the faithful performance of duties as Steward, nor shall any Steward be removed from the job until notice has been given to the Business Manager of the Union.

UNION JOB ACCESS:

Section 2.12. A representative of the Union shall be allowed access to any shop or job, at any reasonable time, where workers are employed under the terms of this Agreement.

PICKET LANGUAGE:

Section 2.13(a). It shall not be a violation of this Agreement and it shall not be cause for discharge or any other disciplinary action by the Employer against any employee for an employee to refuse to cross a lawfully established primary picket line whether at the premises of another Employer or the employee's own Employer.

(b). Any employee exercising such right shall carefully put away all tools, materials, equipment, or any other property of the Employer in a safe manner. Each employee will be responsible for any loss to the Employer for neglect in carrying out this provision but only when a safe place is provided for by the Employer.

Section 2.14. There shall be no limitations on production and no restriction on the full use of any machinery, tools, and equipment by workmen employed under the terms of this Agreement. Workmen shall be properly trained and/or certified if requested by the Employer. Cost of training shall be borne by the Joint Apprenticeship and Training Fund. Such certification must be carried by the Employee at all times.

TOOL LIST:

Section 2.15. Journeymen shall provide themselves with the following tools: knife, pencil, six foot rule, cutting pliers, channel lock type pliers, screwdriver 8" maximum, hammer, pipe wrench 14", cold chisel,

center punch, hacksaw frame, small level, plumb bob, square, flashlight, keyhole saw, voltage tester.

All conduit used shall be cut and threaded at the job or shop. Where pipe machines for cutting and threading are used, they shall be operated by a Journeyman. When prefabrication work or conduit is cut and threaded in the shop or another job, it shall be dated, labeled and signed by the Journeyman doing the work. All such work shall be done in the jurisdiction of Local Union 840 under the terms and conditions of this Agreement.

Section 2.16. The Employer agrees to provide a suitable place on the job for the storage of workman's tools and clothes and shall allow sufficient time to gather and place tools, materials, equipment, etc. in the storage facilities by quitting time. Heat will be provided in inclement weather. In case of fire on the job, the Employer shall settle the fire loss for the benefit of himself and his employees. In the event that burglary occurs on the job by breaking and entering these storage facilities and the Journeyman's personal tools are stolen or destroyed by vandalism the Employer agrees to reimburse each Journeyman for the present value of his stolen or damaged tools, but in no case is the compensation to any Journeyman to exceed \$250.00.

Section 2.17. The Employer shall furnish all other necessary tools or equipment. Workers will be held responsible for the tools or equipment issued to them, provided the Employer furnishes the necessary lockers, tool boxes, or other safe place of storage. Tools must be taken out and put away during working hours.

UNION SECURITY:

Section 2.18. All Employees who are members of the Union on the effective date of this Agreement shall be required to remain members of the Union as a condition of Employment during the term of this Agreement. New Employees shall be required to become and remain members of the Union as a condition of employment from and after the eighth day following the date of employment or the effective

date of the Agreement, whichever is later. All workmen shall receive at least the minimum wages and shall work under the conditions of the Agreement.

ANNULMENT/SUBCONTRACTING:

Section 2.19. The Local Union is a part of the International Brotherhood of Electrical Workers and any violation or annulment by an individual Employer of the approved Agreement of this or any other Local Union of the IBEW, other than violations of Paragraph 2 of this Section, will be sufficient cause for the cancellation of his Agreement by the Local Union after a finding has been made by the International President of the Union that such a violation or annulment has occurred.

The subletting, assigning, or transfer by an individual Employer of any work in connection with electrical work to any person, firm or corporation not recognizing the IBEW or one of its Local Unions as the collective bargaining representative of his employees on any electrical work in the jurisdiction of this or any other Local Union to be performed at the site of the construction, alteration, painting or repair of a building, structure or other work, will be deemed a material breach of this Agreement.

All charges of violations of Paragraph 2 of this Section shall be considered as a dispute and shall be processed in accordance with the provision of this Agreement covering the procedure for the handling of grievances and the final and binding resolution of disputes.

ARTICLE III**HOURS/WAGES/WORKING CONDITIONS****HOURS: (*Workday/Workweek*)****Section 3.01.**

a) Eight hours work between the hours of 8 a.m. and 4:30 p.m., with 30 minutes for a lunch period between noon and 12:30 p.m. shall constitute the workday. Five such days, Monday through Friday, shall constitute the workweek. The normal workday may be varied by no more than two (2) hours. The parties may further vary the normal work day upon mutual agreement.

b) FOUR 10-HOUR DAYS

The Employer, with 24-hour prior notice to the Union, may institute a workweek consisting of four (4) consecutive 10-hour days between the hours of 7 a.m. and 6 p.m., Monday through Thursday, with one-half hour allowed for a lunch period. Friday may be used as a make-up day, and if utilized, a minimum of eight hours must be scheduled. After 10 hours in a workday, or 40 hours in a workweek, overtime shall be paid at a rate of 1-1/2 times the regular rate of pay.

OVERTIME/HOLIDAYS:

Section 3.02. All work performed outside the regularly scheduled working hours and on Saturdays shall be paid for at one and one half (1 ½) times the straight time rate of pay. Overtime must be paid for all time worked in excess of eight (8) hours in the regular workday, Monday through Friday. Overtime must be paid for all time in excess of forty (40) hours in the work week. All work performed on Sundays and the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day, or days celebrated as such shall be paid for at double the straight time rate of pay. If a Holiday falls on Saturday, it will be celebrated on the Friday preceding and if it falls on Sunday, it will be celebrated on the Monday following the Holiday.

Section 3.03. No work shall be performed on Labor Day, except in case of emergency.

PAYDAY:**Section 3.04**

a) Wages shall be paid weekly by cash or check before quitting time on Friday at the job site. Not more than one calendar week's wages may be withheld (example; If payroll period ends on Sunday, payment to be made no later than Friday). In the event an Employer defaults in payment or check he shall then be required to pay by certified check or cash.

b) Employees may voluntarily allow for direct electronic deposit of wages on a weekly basis to the bank or credit union of the employee's choice. This manner of payment, once adopted, may not be changed except upon 14-day advance written notification between the employee and Employer with notification copied to the Union.

c) Any workmen laid off or discharged shall be paid all his wages due in full immediately. In the event the employee is not paid either on the regular day or when terminated, waiting time shall be charged at the regular straight time rate until payment is made, not to exceed eight (8) hours in any 24 hour period. Any workman who is laid off shall be allowed 30 minutes to gather his tools and belongings.

d) The Business Manager of the Local Union must be notified 48 hours in advance of any lay off, Saturdays, Sundays and Holidays not included.

e) Any man reporting for work being laid off prior to starting work without the Business Manager having been notified the day previous of such layoff, shall receive not less than four (4) hours to gather his tools and personal belongings and shall be paid off in full immediately. All layoff provisions of Section 3.04(c) shall apply to this Section.

CLASSIFICATIONS/WAGES:

Section 3.05(a). The minimum hourly rate of wages for the entire jurisdiction shall be as follows:

	<u>6/1/10</u>
JOURNEYMAN WIREMAN	\$29.10
FOREMAN (110%)	\$32.00
GENERAL FOREMAN (120%)	\$34.90

Effective 6/1/11 - \$1.20 cent increase (\$1.10 to wages, \$.10 to JATC), with allocation yet to be determined.

Percentages for Foreman, General Foreman and Apprentices to be rounded to the nearest nickel.

APPRENTICE WIREMAN – SIX (6) PERIODS

1ST PERIOD	40% of Journeyman Wireman Rate
2ND PERIOD	45% of Journeyman Wireman Rate
3RD PERIOD	50% of Journeyman Wireman Rate
4TH PERIOD	60% of Journeyman Wireman Rate
5TH PERIOD	70% of Journeyman Wireman Rate
6TH PERIOD	80% of Journeyman Wireman Rate

1ST and 2ND Periods Apprentices do not receive Local 840 Pension and Annuity contributions. All other benefits shall be paid at 100% of rate applicable to Journeyman classification. By mutual agreement, Apprentice rates to nearest five cents (\$0.05).

FRINGES:

Section 3.05 (b). The minimum contributions shall be as follows for Journeymen Wiremen in the above area listed in Section 3.05 (a). Benefits are paid per hour worked except NEBF which is a percentage of gross payroll and are paid in addition to the wage rate listed in item 3.05(a).

<u>Effective Date</u>	<u>6/1/10</u>
Health Insurance	\$ 7.70
Pension	5.27
Annuity	3.25
JATC	.70
NLMCC	.01
GLMCC	.10
AMF	.15
NEBF	3% of gross wages

The minimum straight-time rates of pay for Journeymen Wiremen shall be as follows: Per Article III, Section 3.12, "day shift" shall be hours worked between 8:00 A.M. and 4:30 P.M.; "second shift" is between 4:30 P.M. and 1:00 A.M.; and "third shift" is between 12:30 A.M. and 9:00 A.M.

<u>Effective Date</u>	<u>6/1/10</u>
First Shift Hours	\$29.10
Second Shift Hours	\$33.50
Third Shift Hours	\$36.40

Section 3.06. Workmen required working 40 feet or more above a floor or working platform on swinging toothpick scaffolds or boatswain chairs, shall receive \$.50 above the applicable rate of pay. Where safety nets are installed according to O.S.H.A. standards and/or other State Safety Standards and/or bucket trucks used with a safety belt and lanyards according to O.S.H.A. standards or other State Safety Standards, this high time rate shall not apply.

Section 3.06(a) Any workman working over 50 feet high shall receive \$1.00 above the applicable rate and any workman working over 100 feet high shall receive \$2.00 above the applicable rate. These rates shall not apply to workers in bucket trucks and motorized scaffolds where safety harnesses are used.

Section 3.07. When workmen are directed to report to a job but, do not start work due to lack of materials or other causes beyond their control, they shall receive two (2) hours pay unless notified one hour before scheduled starting time not to report. In the event that they begin work, they shall receive a minimum of four (4) hours.

If weather conditions are such that men cannot work, they may be shifted to other jobs for that day, however, the Foreman's quota will not be affected by this temporary transferal of workmen.

TRAVEL TIME:

Section 3.08. When workmen are directed by the Employer to report to the Employer's shop, the Employer shall furnish transportation and pay for traveling time from shop to job, job to job, and job to shop. Any employee requested and agreeing to use his own transportation for traveling from shop to job, job to job and job to shop shall be paid as per I.R.S. allocated amounts effective June 1st of each year.

When workmen are directed by the Employer to report directly to any job within the geographical jurisdiction covered by the Agreement, he shall start work at the starting time designated by the Employer and may work a maximum of eight (8) hours on the job at the regular rate of pay.

RATIO OF FOREMAN TO JOURNEYMAN:

Section 3.09. Foreman and General Foreman shall be appointed as follows: On all shifts requiring four (4) Journeymen, one Journeyman shall be designated Foreman.

On all shifts requiring ten (10) Journeymen, the Foreman shall be designated as supervisory.

On all shifts requiring fifteen (15) Journeymen, two Journeymen shall be designated as Foremen.

One Foreman shall be designated General Foreman and shall be supervisory. The second Foreman shall be designated a working Foreman.

On any job requiring more than two foremen, the General Foreman shall supervise foremen only and shall not at the same time supervise a crew.

After two or more foremen are required, no crew shall consist of more than ten (10) other electrical workers.

On all shifts requiring twenty-one (21) Journeymen, three Journeymen shall be designated as Foremen. One Foreman shall be designated General Foreman and shall be supervisory. The second Foreman shall also be designated as a supervisory Foreman. The third Foreman shall be designated as a working Foreman.

When thirty-one (31) Journeymen are employed on a shift and for each additional ten (10) Journeymen or fraction thereafter (e.g. 41, 51, 61, etc.) employed on a shift, one additional Foreman shall be designated. All Foremen shall be working Foremen except the General Foreman and one additional Foreman as designated by the Employer. Nothing in this Section shall prevent the Employer from designating additional Foremen or supervisory Foremen.

Supervisory Foremen as used in this Section shall mean that normal productive work shall not be performed by the Foreman except layout work, performing of final testing, handling of materials and other supervisory work.

Section 3.10. On jobs having one or more Foremen, workmen are not to take directions or orders from anyone except their immediate Foreman. No Foreman on one job shall at the same time perform work on another job.

UNION DUES DEDUCTION:

Section 3.11. The Employer agrees to deduct and forward to the Financial Secretary of the Local Union—upon receipt of a voluntary written authorization—the additional working dues from the pay of each IBEW member. The amount to be deducted shall be the amount specified in the approved Local Union Bylaws. Such amount shall be certified to the Employer by the Local Union upon request by the Employer.

SHIFT CLAUSE:

Section 3.12. When so elected by the contractor or mandated by the customer, multiple shifts of eight (8) hours for at least five (5) days' duration may be worked. When two (2) or three (3) shifts are worked:

The first shift (day shift) shall consist of eight (8) consecutive hours worked between the hours of 8:00 A.M. and 4:30 P.M. Workmen on the "day shift" shall be paid at the regular hourly rate of pay for all hours worked.

The second shift (swing shift) shall consist of eight consecutive hours worked between the hours of 4:30 P.M. and 1:00 A.M. Workmen on the "swing shift" shall be paid at the regular hourly rate of pay plus 15% for all hours worked.

The third shift (graveyard shift) shall consist of eight (8) consecutive hours worked between the hours of 12:30 A.M. and 9:00 A.M. Workmen on the "graveyard shift" shall be paid at the regular hourly rate of pay plus 25% for all hours worked.

The Employer shall be permitted to adjust the starting hours of the shift by up to two (2) hours in order to meet the needs of the customer.

If the parties to the Agreement mutually agree, the shift week may commence with the third shift (graveyard shift) at 12:30 A.M. Monday to coordinate the work with the customer's work schedule. However, any such adjustment shall last for at least five (5) consecutive days' duration unless mutually changed by the parties to this agreement.

An unpaid lunch period of thirty (30) minutes shall be allowed on each shift. All overtime work required before the established start time and after the completion of eight (8) hours of any shift shall be paid at one and one-half times the "shift" hourly rate.

There shall be no pyramiding of overtime rates and double the straight rate shall be the maximum compensation for any hour worked. There shall be no requirement for a day shift when either the second or third shift is worked.

ARTICLE IV REFERRAL PROCEDURE

Section 4.01. In the interest of maintaining an efficient system of production in the Industry, providing for an orderly procedure of referral of applicants for employment, preserving the legitimate interests of employees in their employment status within the area and of eliminating discrimination in employment because of membership or non-membership in the Union, the parties hereto agree to the following system of referral of applicants for employment.

Section 4.02. The Union shall be the sole and exclusive source of referral of applicants for employment.

Section 4.03. The Employer shall have the right to reject any applicant for employment.

Section 4.04. The Union shall select and refer applicants for employment without discrimination against such applicants by reason of membership or non-membership in the Union and such selection and referral shall not be affected in any way by rules, regulations, bylaws, constitutional provisions or any other aspect or obligation of Union membership policies or requirements. All such selection and referral shall be in accord with the following procedure.

Section 4.05. The Union shall maintain a register of applicants for employment established on the basis of the Groups listed below. Each applicant for employment shall be registered in the highest priority Group for which he qualifies.

JOURNEYMAN WIREMAN -- JOURNEYMAN TECHNICIAN

GROUP I All applicants for employment who have four or more years' experience in the trade, are residents of the geographical area constituting the normal construction labor market, have passed a Journeyman Wireman's examination given by a duly Constituted Inside Construction Local Union of the I.B.E.W. or have been certified as a Journeyman Wireman by any Inside Joint Apprenticeship and Training Committee, and, who have been employed in the trade for a period of at least one year in the last four years in the geographical area covered by the collective bargaining agreement.

GROUP II All applicants for employment who have four or more years' experience in the trade and who have passed a Journeyman Wireman's examination given by a duly constituted Inside Construction Local Union of the I.B.E.W. or have been certified as a Journeyman Wireman by any Inside Joint Apprenticeship and Training Committee.

GROUP III All applicants for employment, who have two or more years' experience in the trade, are residents of the geographical area constituting the normal construction labor market, and who have been employed for at least six months in the last three years in the geographical area covered by the collective bargaining agreement.

GROUP IV All applicants for employment who have worked at the trade for more than one year.

Section 4.06. If the registration list is exhausted and the Local Union is unable to refer applicants for employment to the Employer within 48 hours from the time of receiving the Employer's request, Saturdays, Sundays and holidays excepted, the Employer shall be free to secure applicants without using the Referral Procedure but such applicants, if hired, shall have the status of "temporary employees".

Section 4.07. The Employer shall notify the Business Manager promptly of the names and Social Security numbers of such "temporary employees" and shall replace such "temporary employees" as soon as registered applicants for employment are available under the Referral Procedure.

Section 4.08. "Normal Construction Labor Market" is defined to mean the following geographical area plus the commuting distance adjacent thereto, which includes the area from which the normal labor supply is secured: All of Yates Co., Seneca Co., except the Towns of Lodi and Covert; Towns of Farmington, Manchester, Phelps, Hopewell, Geneva, Gorham, Seneca and Canandaigua in Ontario Co., Towns of Elbridge and Skaneateles in Onondaga Co., and all of Cayuga Co., except the Towns of Genoa, Sterling, Ira, Victory, Sempronious, Summerhill and Locke, Towns of Arcadia, Galen, Lyons and Savannah in Wayne Co.

The above geographical area is agreed upon by the parties to include the area defined by the Secretary of Labor to be the appropriate prevailing wage area under the Davis-Bacon Act to which the Agreement applies.

Section 4.09. "Resident" means a person who has maintained his permanent home in the above defined geographical area for a period of not less than one year or who, having had a permanent home in this area, has temporarily left with the intention of returning to this area as his permanent home.

Section 4.10. An "Examination" shall include experience rating tests if such examination shall have been given prior to the date of this procedure, but from and after the date of this procedure, shall include only written and/or practical examinations given by a duly constituted Inside Construction Local Union of the I.B.E.W. Reasonable intervals of time for examinations are specified as ninety (90) days. An applicant shall be eligible for examination if he has four years' experience in the trade.

Section 4.11. The Union shall maintain an "Out of Work List" which shall list the applicants within each Group in chronological order of the dates they register their availability for employment.

RE-REGISTRATION:

Section 4.12. An applicant who has registered on the "Out of Work List" must renew his application every 30 days or his name will be removed from the List.

Section 4.13. An applicant who is hired and who receives, through no fault of his own, work of forty hours or less shall, upon re-registration, be restored to his appropriate place within his Group.

Section 4.14(a) Employers shall advise the Business Manager of the Local Union of the number of applicants needed. The Business Manager shall refer applicants to the Employer by first referring applicants in Group I in the order of their place on the "Out of Work List" and then referring applicants in the same manner successively from the "Out of Work List" in Group II, then Group III, and then Group IV. Any applicant who is rejected by the Employer shall be returned to his appropriate place within his GROUP and shall be referred to other employment in accordance with the position of his GROUP and his place within his Group.

REPEATED DISCHARGE:

Section 4.14(b). An applicant who is discharged for cause two times within a 12-month period shall be referred to the neutral member of the Appeals Committee for a determination as to the applicant's continued eligibility for referral. The neutral member of the Appeals Committee shall, within three business days, review the qualifications of the applicant and the reasons for the discharges. The neutral member of the Appeals Committee may, in his or her sole discretion: (1) require the applicant to obtain further training from the JATC before again being eligible for referral; (2) disqualify the applicant for

referral for a period of four weeks, or longer, depending on the seriousness of the conduct and/or repetitive nature of the conduct; (3) refer the applicant to an employee assistance program, if available, for evaluation and recommended action; or (4) restore the applicant to his/her appropriate place on the referral list.

Section 4.15. The only exceptions which shall be allowed in this order of referral are as follows:

(a). When the Employer states bona fide requirements for special skills and abilities in his request for applicants, the Business Manager shall refer the first applicant on the register possessing such skills and abilities.

Section 4.16. An Appeals Committee is hereby established composed of one member appointed by the Union, one member appointed by the Employer or the Association, as the case may be, and a Public Member appointed by both these members.

Section 4.17. It shall be the function of the Appeals Committee to consider any complaint of any employee or applicant for employment arising out of the administration by the Local Union of Sections 4.04 through 4.15 of the Agreement. The Appeals Committee shall have the power to make a final and binding decision on any such complaint which shall be complied with by the Local Union. The Appeals Committee is authorized to issue procedural rules for the conduct of its business but it is not authorized to add to, subtract from, or modify any of the provisions of this Agreement and its decisions shall be in accord with this Agreement.

Section 4.18. A representative of the Employer or of the Association, as the case may be, designated to the Union in writing, shall be permitted to inspect the Referral Procedure records at any time during normal business hours.

Section 4.19. A copy of the Referral Procedure set forth in this Agreement shall be posted on the Bulletin Board in the offices of the Local Union and in the offices of the Employers who are parties to this Agreement.

Section 4.20. Apprentices shall be hired and transferred in accordance with the Apprenticeship provisions of the Agreement between the parties.

ARTICLE V

STANDARD INSIDE APPRENTICESHIP & TRAINING LANGUAGE

Section 5.01. There shall be a local Joint Apprenticeship and Training Committee (JATC) consisting of a total of either 6 or 8 members who shall also serve as Trustees to the local apprenticeship and training trust. An equal number of members (either 3 or 4) shall be appointed, in writing, by the local chapter of the National Electrical Contractors Association (NECA) and the local union of the International Brotherhood of Electrical Workers (IBEW).

The local apprenticeship standards shall be in conformance with national guideline standards and industry policies to ensure that each apprentice has satisfactorily completed the NJATC required hours and course of study. All apprenticeship standards shall be registered with the NJATC before being submitted to the appropriate registration agency.

The JATC shall be responsible for the training of apprentices, journeymen, installers, technicians, and all others (unindentured, intermediate journeymen, etc.)

Section 5.02 All JATC member appointments, re-appointments and acceptance of appointments shall be in writing. Each member shall be appointed for a 3 year term, unless being appointed for a lesser period of time to complete an unexpired term. The terms shall be staggered, with one (1) term from each side expiring each year. JATC members shall complete their appointed term unless removed for cause by party they represent or they voluntarily resign. All vacancies shall be filled immediately.

The JATC shall select from its membership, but not both from the same party, a Chairman and a Secretary who shall retain voting privileges. The JATC will maintain one (1) set of minutes for JATC

committee meetings and a separate set of minutes for Trust meetings. The JATC should meet on a monthly basis, and also upon the call of the Chairman.

Section 5.03. Any issue concerning an apprentice or an apprenticeship matter shall be referred to the JATC for its review, evaluation, and resolve; as per standards and policies. If the JATC deadlocks on any issue, the matter shall be referred to the Labor-Management Committee for resolution as outlined in Article I of this agreement; except for trust fund matters, which shall be resolved as stipulated in the local trust instrument.

Section 5.04. There shall be only one (1) JATC and one (1) local apprenticeship and training trust. The JATC may, however, establish joint subcommittees to meet specific needs, such as residential or telecommunication apprenticeship. The JATC may also establish a subcommittee to oversee an apprenticeship program within a specified area of the jurisdiction covered by this agreement.

All subcommittee members shall be appointed, in writing, by the party they represent. A subcommittee member may or may not be a member of the JATC.

Section 5.05. The JATC may select and employ a part-time or a full-time Training Director and other support staff, as it deems necessary. In considering the qualification, duties, and responsibilities of the Training Director, the JATC should review the Training Director's Job Description provided by the NJATC. All employees of the JATC shall serve at the pleasure and discretion of the JATC.

Section 5.06. To help ensure diversity of training, provide reasonable continuous employment opportunities, and comply with apprenticeship rules and regulations, the JATC, as the program sponsor, shall have full authority for issuing all job training assignments and for transferring apprentices from one employer to another. The employer shall cooperate in providing apprentices with needed work experiences. The local union referral office shall be notified, in writing, of all job training assignments. If the employer is unable to provide reasonable continuous employment for apprentices, the JATC is to be so notified.

Section 5.07. All apprentices shall enter the program through the JATC as provided for in the registered apprenticeship standards and selection procedures.

An apprentice may have their indenture canceled by the JATC at any time prior to completion as stipulated in the registered standards. Time worked and accumulated in apprenticeship shall not be considered for local union referral purposes until the apprentice has satisfied all conditions of apprenticeship. Individuals terminated from apprenticeship shall not be assigned to any job in any classification, or participate in any related training, unless they are reinstated in apprenticeship as per the standards, or they qualify through means other than apprenticeship, at some time in the future, but no sooner than two years after their class has completed apprenticeship, and they have gained related knowledge and job skills to warrant such classification.

Section 5.08. The JATC shall select and indenture a sufficient number of apprentices to meet local manpower needs. The JATC is authorized to indenture the number of apprentices necessary to meet the job site ratio as per Section 5.12.

Section 5.09. Though the JATC cannot guarantee any number of apprentices; if a qualified employer requests an apprentice, the JATC shall make every effort to honor the request. If unable to fill the request within ten (10) working days, the JATC shall select and indenture the next available person from the active list of qualified applicants. An active list of qualified applicants shall be maintained by the JATC as per the selection procedures.

Section 5.10. To accommodate short-term needs when apprentices are unavailable, the JATC shall assign unindentured workers who meet the basic qualification for apprenticeship. Unindentured workers shall not remain employed if apprentices become available for OJT assignment. Unindentured workers shall be used to meet job site ratios except on wage and hour (prevailing wage) job sites.

Before being employed, the unindentured person must sign a letter of understanding with the JATC and the employer - agreeing that they are not to accumulate more than two thousand (2,000) hours as an unindentured, that they are subject to replacement by indentured apprentices and that they are not to work on wage and hour (prevailing wage) job sites.

Should an unindentured worker be selected for apprenticeship, the JATC will determine, as provided for in the apprenticeship standards, if some credit for hours worked as an unindentured will be applied toward the minimum OJT hours of apprenticeship.

The JATC may elect to offer voluntary related training to unindentured; such as Math Review, English, Safety, Orientation/Awareness, Introduction to OSHA, First-Aid and CPR. Participation shall be voluntary.

Section 5.11. The employer shall contribute to the local health and welfare plans and to the National

Electrical Benefit Fund (NEBF) on behalf of all apprentices and unindentured. Contributions to other benefit plans may be addressed in other sections of this agreement.

Section 5.12. Each job site shall be allowed a ratio of 2 apprentice(s) for every 3 Journeyman Wiremen(man) .

Number of Journeymen	Maximum Number of Apprentices/ Unindentured
1 to 3	2
4 to 6	4
etc.	etc.

The first person assigned to any job site shall be a Journeyman Wireman.

A job site is considered to be the physical location where employees report for their work assignments. The employer's shop (service center) is considered to be a separate, single job site. All other physical locations where workers report for work are each considered to be a single, separate job site.

Section 5.13. An apprentice is to be under the supervision of a Journeyman Wireman at all times. This does not imply that the apprentice must always be in sight of a Journeyman Wireman. Journeymen are not required to constantly watch the apprentice. Supervision will not be of a nature that prevents the development of responsibility and initiative. Work may be laid out by the employer's designated supervisor or journeyman based on their evaluation of the apprentice's skills and ability to perform the job tasks. Apprentices shall be permitted to perform job tasks in order to develop job skills and trade competencies. Journeymen are permitted to leave the immediate work area without being accompanied by the apprentice.

Apprentices, who have satisfactorily completed the first four years of related classroom training using the NJATC curriculum and accumulated a minimum of 6,500 hours of OJT with satisfactory performance, shall be permitted to work alone on any job site and receive work assignments in the same manner as a Journeyman Wireman.

An apprentice shall not be the first person assigned to a job site and apprentices shall not supervise the work of others.

Section 5.14. Upon satisfactory completion of apprenticeship, the JATC shall issue all graduating apprentices an appropriate diploma from the NJATC. The JATC shall encourage each graduating apprentice to apply for college credit through the NJATC. The JATC may also require each apprentice to acquire any electrical license required for journeymen to work in the jurisdiction covered by this Agreement.

Section 5.15. The parties to this Agreement shall be bound by the Local Joint Apprenticeship Training Trust Fund Agreement which shall conform to Section 302 of the Labor-Management Relations Act of 1947 as amended, ERISA, and other applicable regulations.

The Trustees authorized under this Trust Agreement are hereby empowered to determine the reasonable value of any facilities, materials, or services furnished by either party. All funds shall be handled and disbursed in accordance with the Trust Agreement.

Section 5.16. All Employers subject to the terms of this Agreement shall contribute the amount of funds specified by the parties signatory to the local apprenticeship and training trust agreement. The current rate of contribution is listed in Section 3.05. This sum shall be due the Trust Fund by the same date as is their payment to the NEBF under the terms of the Restated Employees Benefit Agreement and Trust.

ARTICLE VI FRINGE BENEFITS

NEBF:

Section 6.01. It is agreed that in accord with the Employees Benefit Agreement of the National Electrical Benefit Fund ("NEBF"), as entered into between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers on September 3, 1946, as amended, and now delineated as the Restated Employees Benefit Agreement and Trust, that unless authorized otherwise by the NEBF the individual Employer will forward monthly to the NEBF's designated local collection agent an amount equal to 3% of the gross monthly labor payroll paid to, or accrued by, the employees in this bargaining unit, and a completed payroll report prescribed by the NEBF. The payment shall be made by check or draft and shall constitute a debt due and owing to the NEBF on the last day of each calendar month, which may be recovered by suit initiated by the NEBF or its assignee. The payment and the payroll report shall be mailed to reach the office of the appropriate local collection agent not later than fifteen (15) calendar days following the end of each calendar month.

The individual Employer hereby accepts, and agrees to be bound by, the Restated Employees Benefit Agreement and Trust.

An individual Employer who fails to remit as provided above shall be additionally subject to having his agreement terminated upon seventy-two (72) hours' notice in writing being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the appropriate local collection agent.

The failure of an individual Employer to comply with the applicable provisions of the Restated Employees Benefit Agreement and Trust shall also constitute a breach of this Agreement.

Section 6.02. To promote harmony between the Electrical Workers and their Employers and to give the Employees a fuller sense of financial security, the Employers hereby agree to contribute to the various fringe benefit funds as provided for in the other Sections of this Article.

All Funds shall be administered by Boards of Trustees with equal representation on the Boards of the Employer and the Employee Groups in accordance with all existing Federal and State laws and regulations and any subsequently enacted applicable legislation.

The Employers agree to comply with all rules and regulations for the operation and maintenance of the Funds adopted by the Board of Trustees and will submit monthly payments and reports to the Office of the Funds on forms furnished by the Funds. These forms shall be combined in conjunction with the NEBF forms for the reporting of all Fringe Benefit and deductions required under the terms of this Agreement.

The forms shall provide the following information: Dates payroll week's end, hours straight time worked and hours overtime worked, total wages paid and amount of working dues deducted for each Employee.

The payments and payroll reports shall be mailed to reach the Fund Office not later than fifteen (15) calendar days following the end of each calendar month.

Individual Employers who fail to remit as provided above shall be additionally subject to having his Agreement terminated upon seventy-two (72) hours notice in writing being served by the Union,

provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the Funds Office.

The entire cost of setting up a Fund and for its continued operation and maintenance shall be borne by the Fund.

At any time a Fund should terminate and the obligation of the Employer to pay into a Fund should cease, it is agreed that the Employer at such time immediately increase the rate of hourly pay of the Employee by the amount he would normally pay into the Fund.

Section 6.03. I.B.E.W. LOCAL 840 HEALTH INSURANCE FUND – The Employers agree to pay into a Health Insurance Fund as specified in Section 3.05 of this Agreement an amount per hour for each man hour worked by Employees covered under this Agreement.

Section 6.04. I.B.E.W. LOCAL 840 PENSION TRUST FUND – The Employers agree to pay into a Pension Trust Fund as specified in Section 3.05 of this Agreement an amount per hour for each man hour worked by Employees covered under this Agreement.

Section 6.05. I.B.E.W. LOCAL 840 EDUCATIONAL TRUST FUND (JATC) – The Employers agree to pay into an Educational Trust Fund in accordance with Article III, Section 3.05, the amount per hour for each man hour worked by Employees covered under this Agreement.

Section 6.06. DUES - The Employer agrees to deduct and forward to the Financial Secretary of the Local Union – upon receipt of a voluntary written authorization – the additional working dues from the pay of each I.B.E.W. member. The amount to be deducted shall be the amount specified in the approved Local Union Bylaws. Such amount shall be certified to the Employer by the Local Union upon request by the Employer.

Section 6.07. BONDING – An Employer contractor who has not had two years of covered employment requiring payment of contributions and deductions to the Funds and the Local Union herein shall be required to post a single bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) securing the

payment of these Funds and the Local Union deductions against any default. A copy of said bond shall be furnished to Local Union 840, I.B.E.W. and the NECA office for their files. Upon proof of no default for two years, the requirement for furnishing the bond shall be waived. However, in the event of any default the parties to the Agreement jointly through the Fund Trustees may require such bond from an Employer. An Employer from another I.B.E.W. jurisdiction, upon proof of no default for two years for Funds and deductions in that jurisdiction shall not be required to post a bond. But upon default, this Employer is subject to the same conditions as set forth above while working in this jurisdiction.

Section 6.08. I.B.E.W. LOCAL 840 ANNUITY TRUST FUND – The Employer hereby agrees to pay into the Annuity Fund as specified in Section 3.05 of this Agreement an amount per hour for each man hour worked by Employees covered under this Agreement.

If at any time the Annuity Fund should terminate and the obligation of the Employer to pay into the Fund should cease, it is agreed the Employer at such time shall immediately increase the hourly pay of the Employee by the amount he would normally pay into the Fund.

The Employers and all Employers operating under this Agreement shall comply with and be bound by the terms of the instruments setting forth the Annuity Fund of Local No. 840, International Brotherhood of Electrical Workers. These documents are available for inspection at the Fund Office.

This Annuity Fund shall be administered by a Board of Trustees with equal representation on the Board by Employers and the Employee groups in accordance with all existing applicable Federal and State Laws and regulations and any subsequent enacted legislation applicable thereto. The entire expense for the setting up of this Fund and for its continued operation and maintenance shall be borne by the Fund.

Section 6.09. COPE - I hereby authorize the Company to deduct from my pay the sum of two cents (\$.02) per hour actually worked and forward that amount to the International Brotherhood of Electrical Workers, AFL-CIO Committee on Political Education, 900 7th Street, N.W., Washington, D.C. 20001.

This authorization is signed voluntarily and on the understanding that the IBEW-COPE will use that money to make political contributions and expenditures in connection with federal, state and local elections and that this voluntary authorization is in response to a joint fund raising effort by the I.B.E.W. and the AFL-CIO.

ARTICLE VII
NATIONAL ELECTRICAL INDUSTRY FUND (NEIF)

Section 7.01. Each individual Employer shall contribute an amount not to exceed one percent (1%) nor less than .2 of 1% of the productive electrical payroll as determined by each local Chapter and approved by the Trustees, with the following exclusions:

- 1) Twenty-five percent (25%) of all productive electrical payroll in excess of 75,000 man-hours paid for electrical work in any one Chapter area during any one calendar year but not exceeding 150,000 man hours.
- 2) One hundred percent (100%) of all productive electrical payroll in excess of 150,000 man-hours paid for electrical work in any one Chapter area during any one calendar year.

(Productive electrical payroll is defined as the total wages including overtime paid with respect to all hours worked by all classes of electrical labor for which a rate is established in the prevailing labor area where the business is transacted.)

Payment shall be forwarded monthly to the National Electrical Industry Fund in a form and manner prescribed by the Trustees no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. Failure to do so will be considered a breach of this Agreement on the part of the individual Employer.

ARTICLE VIII

LOCAL LABOR-MANAGEMENT COOPERATION COMMITTEE (LMCC)

Section 8.01. The parties agree to participate in a Labor-Management Cooperation Fund, under authority of Section 6(b) of the Labor Management Cooperation Act of 1978, 29 U.S.C. §175(a) and Section 302(c)(9) of the Labor Management Relations Act, 29 U.S.C. §186(c)(9). The purposes of this Fund include the following:

- 1) to improve communications between representatives of Labor and Management;
- 2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;
- 3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;
- 4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the electrical construction industry;
- 5) to sponsor programs which improve job security, enhance economic and community development, and promote the general welfare of the community and industry;
- 6) to engage in research and development programs concerning various aspects of the industry, including, but not limited to, new technologies, occupational safety and health, labor relations, and new methods of improved production;
- 7) to engage in public education and other programs to expand the economic development of the electrical construction industry;
- 8) to enhance the involvement of workers in making decisions that affect their working lives; and,
- 9) to engage in any other lawful activities incidental or related to the accomplishment of these purposes and goals.

Section 8.02. The Fund shall function in accordance with, and as provided in, its Agreement and Declaration of Trust and any amendments thereto and any other of its governing

documents. Each Employer hereby accepts, agrees to be bound by, and shall be entitled to participate in the LMCC, as provided in said Agreement and Declaration of Trust.

Section 8.03. Each employer shall contribute as per Section 3.05 per hour worked. Payment shall be forwarded monthly, in a form and manner prescribed by the Trustees, no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. The Finger Lakes Chapter, NECA, or its designee, shall be the collection agent for this Fund.

Section 8.04. If an Employer fails to make the required contributions to the Fund, the Trustees shall have the right to take whatever steps are necessary to secure compliance. In the event the Employer is in default, the Employer shall be liable for a sum equal to 15% of the delinquent payment, but not less than the sum of twenty dollars (\$20), for each month payment of contributions is delinquent to the Fund, such amount being liquidated damages, and not a penalty, reflecting the reasonable damages incurred by the Fund due to the delinquency of the payments. Such amount shall be added to and become a part of the contributions due and payable, and the whole amount due shall bear interest at the rate of ten percent (10%) per annum until paid. The Employer shall also be liable for all costs of collecting the payment together with attorneys' fees.

ARTICLE IX

NATIONAL LABOR-MANAGEMENT COOPERATION COMMITTEE (NLMCC)

Section 9.01. The parties agree to participate in the NECA-IBEW National Labor-Management Cooperation Fund, under authority of Section 6(b) of the Labor Management Cooperation Act of 1978, 29 U.S.C. §175(a) and Section 302(c)(9) of the Labor Management Relations Act, 29 U.S.C. §186(c)(9). The purposes of this Fund include the following:

- 1) to improve communication between representatives of Labor and Management;
- 2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organization effectiveness;
- 3) to assist worker and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

- 4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the electrical construction industry;
- 5) to sponsor programs which improve job security, enhance economic and community development, and promote the general welfare of the community and the industry;
- 6) to encourage and support the initiation and operation of similarly constituted local labor-management cooperation committees;
- 7) to engage in research and development programs concerning various aspects of the industry, including, but not limited to, new technologies, occupational safety and health, labor relations, and new methods of improved production;
- 8) to engage in public education and other programs to expand the economic development of the electrical construction industry;
- 9) to enhance the involvement of workers in making decisions that affect their working lives; and
- 10) to engage in any other lawful activities incidental or related to the accomplishment of these purposes and goals.

Section 9.02. The Fund shall function in accordance with, and as provided in, its Agreement and Declaration of Trust, and any amendments thereto and any other of its governing documents. Each Employer hereby accepts, agrees to be bound by, and shall be entitled to participate in the NLMCC, as provided in said Agreement and Declaration of Trust.

Section 9.03. Each employer shall contribute one cent (1¢) per hour worked under this Agreement up to a maximum of 150,000 hours per year. Payment shall be forwarded monthly, in a form and manner prescribed by the Trustees, no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. Finger Lakes Chapter, NECA, or its designee, shall be the collection agent for this Fund.

Section 9.04. If an Employer fails to make the required contributions to the Fund, the Trustees shall have the right to take whatever steps are necessary to secure compliance. In the event the Employer is in default, the Employer shall be liable for a sum equal to 15% of the delinquent

payment, but not less than the sum of twenty dollars (\$20), for each month payment of contributions is delinquent to the Fund, such amount being liquidated damages, and not a penalty, reflecting the reasonable damages incurred by the Fund due to the delinquency of the payments. Such amount shall be added to and become a part of the contributions due and payable, and the whole amount due shall bear interest at the rate of ten percent (10%) per annum until paid. The Employer shall also be liable for all costs of collecting the payment together with attorneys' fees.

ARTICLE X

ADMINISTRATIVE MAINTENANCE FUND

Section 10.01. Each employer signatory to this agreement shall contribute the amount specified in Article III, Section 3.05 per hour worked covered by this Agreement to the Administrative Maintenance Fund (AMF).

The Fund shall be administered solely by the Finger Lakes New York Chapter, National Electrical Contractors Association, Inc., and shall be utilized to pay for the Association's cost of the labor contract administration including negotiations, labor relations, disputes and grievance representation performed on behalf of the signatory Employers. In addition, all other administrative functions required of management, such as service on all funds as required by Federal Law.

The AMF contribution shall be submitted with all other benefits as delineated in the labor agreement by the fifteenth (15) of the following month in which they are due to the

administrator receiving funds. In the event any Employer is delinquent in submitting the required Administrative Maintenance Fund to the designated administrator, the administrator shall have the authority to recover any funds, along with any attorney fees, court costs, interest at one percent (1%) per month and liquidated damages receiving such funds. The enforcement for delinquent payments to the fund shall be the sole responsibility of the fund or Chapter, or Employers, and not the Local Union. The fund may not be used in any manner detrimental to the Local Union or the IBEW.

ARTICLE XI

SAFETY

Section 11.01. There shall be a Joint Safety Committee consisting of three members representing the Chapter and three members representing the Union. The duties of this Committee shall be to develop and recommend safe work rules that are equal to or greater than the Standards for Construction as established by the Occupational Safety and Health Act of 1970, or other applicable federal or state laws. These safe work rules as recommended by the Committee shall be submitted to the parties to this Agreement to be used as part of this collective bargaining process. Any proposed changes or revisions in these safe work rules shall first be considered by this Committee for their concurrence and recommendation before being acted upon by the parties to this Agreement.

It shall also be the function of this Committee to study and update these safe work rules for the benefit of both parties. This Committee shall meet at least once each quarter and also when called by the Chairman or when called by a majority of the current Committee members.

Section 11.02. Members of the Joint Safety Committee shall be selected by the party they represent. Their term of office shall be 3 years unless removed by the party they represent. The term of one

Chapter and one Union representative shall expire each year with successors to be determined in the same manner as the original appointments were made. A Committee member is eligible to succeed himself.

Section 11.03. On all energized circuits of 440 volts or over, as a safety measure, two or more Journeymen shall work together.

Rubber gloves and protective rubber goods to be used on voltage above 500 volts must be tested and date stamped not more than 30 days prior to use. Rubber gloves must not be used without the protective leather outer glove.

All Employees engaged in continuous burning and welding operations or in work that may be hazardous to the eyes, shall be furnished proper protective gear such as welding helmets, gloves and safety goggles, and they must be worn by the Employee.

All Employees exposed to the hazards of fall objects shall be furnished an approved hard hat, either of new or sterilized, with a proper liner for winter operation. These hard hats must be worn by the Employee when so requested by the Employer.

Each job must have a completely equipped Class A First Aid Kit available at all times. Suitable drinking water facilities shall be provided, such as a closed insulated container with individual drinking cups, with ice in hot weather.

Employees required to work in wet locations or in rainy weather shall be furnished rain gear and boots. It is required that all rain gear and boots issued by the Employer remain on the jobsite.

Employees shall not be forced to use ladders, scaffolds, equipment or tools that are unsafe.

Employees who are issued any protective equipment or tools shall return them when so requested, or upon termination.

No circuit shall be connected to panel until load is completely connected.

Section 11.04. Employers contemplating doing work in the so called "hot" areas of atomic laboratories, atomic plants, or on the premises of anyone engaged in the handling or storing of radioactive materials, shall inform and receive permission from the Local Union before sending men into such a building or area.

It is agreed that all safety regulations of Federal, State and local governments as well as those of the owner shall be complied with.

Section 11.05. The Employer recognizes the need for adequate sanitary facilities on each job. Therefore, individual Employers shall see that their Employees are protected by no less than the minimum standards set forth in the applicable laws. In addition, on jobs where more than twenty-five (25) workmen are employed by the electrical contractor, he shall see that separate facilities are provided for these workmen.

EMPLOYER'S RESPONSIBILITY:

Section 11.06. It is the Employer's exclusive responsibility to insure the safety of its employees and their compliance with these safety rules and standards.

ARTICLE XII UNION RIGHTS

12.01 Section. The Union reserves the right to discipline its members for violations of its laws, rules and Agreements.

Section 12.02. This Agreement does not deny the right of the Union or its representative to render assistance to other labor organizations by removal of its members from jobs when necessary and when the Union or its proper representatives decide to do so, but no removal shall take place until notice is given to the Employer involved.

Section 12.03. When such removal takes place, the Union or its representatives shall direct the workmen on such jobs to put away all tools, materials, equipment or any other property of the Employer in a safe and careful manner. The Union will be financially responsible for any loss of the new Employer if it neglects to carry out this provision, but only when a safe place is provided by the Employer.

Section 12.04. The representative of the Union shall be allowed excess to any building at any reasonable time where members of the Union are employed.

Section 12.05. The employer recognizes the right of the Union to appoint a steward at a shop or on a job where workmen are employed under the terms of this Agreement. Such stewards should be allowed sufficient time during regular working hours to see that terms and conditions of this Agreement are observed at his shop or on his job.

In the event a controversy is not adjusted between the steward and the Employer, the steward shall notify the Business Manager of the Union. If the Business Manager and the Employer cannot reach a mutually satisfactory agreement, the case shall be disposed of in accordance with Article I of this Agreement, relative to disputes and grievance. At no time shall any steward be discriminated against by an Employer because of his faithful performance of his duties as a steward.

ARTICLE XIII

NATIONAL ELECTRICAL 401K PLAN

Section 13.01 It is agreed that the individual Employer, in accord with the National Electrical 401(k) Plan Agreement and Trust ("Agreement and Trust") as entered into between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers, as amended, will participate in the National Electrical 401(k) Plan ("NEFP").

The Individual Employer recognizes that applicable rules require contributions to be transmitted to a 401(k) plan as soon as they can reasonably be segregated from the general assets of the employer. The Trustees of the NEFP strongly encourage all contributing employers to regularly remit to the NEFP or its designee any and all bargaining unit employee elective deferrals within seven business days of the date when the Employer receives or withholds such employee elective deferrals. However, in recognition that some employers may be unable reasonably to segregate participant contributions from their general assets more frequently than the standard monthly processing cycle for participant contributions to pension plans, as noted in U.S. Department of Labor Field Assistance Bulletin 2003-2, all contributions must be remitted by the fifteenth (15th) of the month following the month in which the amounts would otherwise have been payable to the participant. In all events, contributions not remitted by this date shall constitute a debt due and owing to the NEFP. In making such contributions, the individual Employer shall utilize the NEFP's electronic remittance system. Further, in agreeing to participate in the NEFP, the individual Employer agrees to cooperate with the NEFP by submitting all reasonably requested documents and information necessary for the NEFP to perform all required testing of the NEFP under the tax laws.

The Chapter and/or the individual Employer, as the case may be, and the Local Union certify that no existing defined benefit plan was terminated or modified in any manner solely as a condition upon or as a result of the adoption of the NEFP. This provision does not interfere with the rights and obligations of such local plan(s)' trustees to make changes to the plan(s) pursuant to the needs of the plan(s), their fiduciary duty, and the requirements of ERISA, the Pension Protection Act, or other laws and regulations.

Inasmuch as the NEFP is intended to offer bargaining unit employees the opportunity to defer current salary into a retirement savings plan and not to replace any existing employer-funded defined benefit plan, no employer contributions will be required or accepted on behalf of individuals for hours worked under the terms of this agreement.

The individual Employer hereby accepts, and agrees to be bound by, the Agreement and Trust.

An individual Employer who fails to remit employee elective deferrals as provided above shall be subject, in addition to all remedies afforded by law or in the Agreement and Trust, to having its

Participating in the NEFP suspended or terminated at the discretion of the Trustees of the NEFP upon written notice to the individual Employer. An individual Employer who fails to remit as provided above shall be additionally subject to having this agreement terminated upon seventy-two (72) hours' notice in writing being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the appropriate local collection agent.

The failure of an individual Employer to comply with the applicable provisions of the Agreement and Trust shall also constitute a breach of his labor agreement.

ARTICLE XIV
SUBSTANCE ABUSE

Section14.01. The dangers and costs that alcohol and other chemical abuses can create in the electrical contracting industry in terms of safety and productivity are significant. The parties to this Agreement resolve to combat chemical abuse in any form and agree that, to be effective, programs to eliminate substance abuse and impairment should contain a strong rehabilitation component. The local parties recognize that the implementation of a drug and alcohol policy and program must be subject to all applicable federal, state, and local laws and regulations. Such policies and programs must also be administered in accordance with accepted scientific principles, and must incorporate procedural safeguards to ensure fairness in application and protection of legitimate interests of privacy and confidentiality. To provide a drug-free workforce for the Electrical Construction Industry, each IBEW local union and NECA chapter shall implement an area-wide Substance Abuse Testing Policy. The policy shall include minimum standards as required by the IBEW and NECA. Should any of the required minimum standards fail to comply with federal, state, and/or local laws and regulations, they shall be modified by the local union and chapter to meet the requirements of those laws and regulations.

ARTICLE XV
CODE OF EXCELLENCE

SECTION 15.01 The parties of this Agreement recognize that to meet the needs of our customers both employer and employee must meet the highest level of performance, professionalism, and productivity. The Code of Excellence has proven to be a vital element in meeting the customer's expectations. Therefore each IBEW local union and NECA chapter shall implement a Code of Excellence Program. The program shall include minimum standards as designed by the IBEW and NECA.

SEPARABILITY CLAUSE

Should any provision of this Agreement be declared illegal by any court of competent jurisdiction, such provisions shall immediately become null and void, leaving the remainder of the Agreement in full force and effect and the parties shall, thereupon, seek to negotiate substitute provisions which are in conformity with the applicable laws.

GENDER LANGUAGE

Whenever the male gender is used in this Agreement, the female gender is also intended.

IN WITNESS WHEREOF, the parties hereto, have executed this Agreement this day of
May , 2010.

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW®

SIGNED:

FINGER LAKES NY CHAPTER NECA, INC.

SIGNED:

LOCAL UNION 840, IBEW

BY Marilyn M. Oppedisano

TITLE Chapter Manager

DATE _____

BY Michael L. Davis

TITLE Business Manager

DATE _____

A-202

Ex. GC-3

LABOR AGREEMENT

CONSTRUCTION

**LOCAL UNION #840, INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS**

And

FINGER LAKES CHAPTER, N.E.C.A., INC.

June 1, 2012 through May 31, 2015

AGREEMENT

AGREEMENT BY AND BETWEEN THE FINGER LAKES NY CHAPTER NECA OF THE NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION (NECA) AND LOCAL UNION NO. 840 (IBEW).

IT SHALL APPLY TO ALL FIRMS WHO SIGN A LETTER OF ASSENT TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

AS USED HEREINAFTER IN THIS AGREEMENT, THE TERM "CHAPTER" SHALL MEAN THE FINGER LAKES NY CHAPTER OF NECA AND THE TERM "UNION" SHALL MEAN LOCAL UNION NO. 840, IBEW.

The term "Employer" shall mean an individual firm who has been recognized by an assent to this Agreement.

BASIC PRINCIPLES

The Employer and the Union have a common and sympathetic interest in the Electrical Industry. Therefore, a working system and harmonious relations are necessary to improve the relationship between the Employer, the Union, and the Public. Progress in industry demands a mutuality of confidence between the Employer and the Union. All will benefit by continuous peace and by adjusting any differences by rational, common-sense methods. Now, therefore, in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

ARTICLE I

EFFECTIVE DATE:

Section 1.01. This Agreement shall take effect June 1, 2012, and shall remain in effect until May 31, 2015 unless otherwise specifically provided for herein. It shall continue in effect from year to year thereafter, from June 1 through May 31 of each year, unless changed or terminated in the way later provided herein.

CHANGES:

Section 1.02(a). Either party or an Employer withdrawing representation from the Chapter or not represented by the Chapter, desiring to change or terminate this Agreement must provide written notification at least 90 days prior to the expiration date of the Agreement or any anniversary date occurring thereafter.

(b). Whenever notice is given for changes, the nature of the changes desired must be specified in the notice, or no later than the first negotiating meeting unless mutually agreed otherwise.

(c). The existing provisions of the Agreement, including this Article, shall remain in full force and effect until a conclusion is reached in the matter of proposed changes.

(d). Unresolved issues or disputes arising out of the failure to negotiate a renewal or modification of this agreement that remain on the 20th of the month preceding the next regular meeting of the Council on Industrial Relations for the Electrical Contracting Industry (CIR) may be submitted jointly or unilaterally to the Council for adjudication. Such unresolved issues or disputes shall be submitted no later than the next regular meeting of the Council following the expiration date of this agreement or any subsequent anniversary date. The Council's decisions shall be final and binding.

(e). When a case has been submitted to the Council, it shall be the responsibility of the negotiating committee to continue to meet weekly in an effort to reach a settlement on the local level prior to the meeting of the Council.

(f). Notice of a desire to terminate this Agreement shall be handled in the same manner as a proposed change.

Section 1.03. This Agreement shall be subject to change or supplement at any time by mutual consent of the parties hereto. Any such change or supplement agreed upon shall be reduced to writing, signed by the parties hereto, and submitted to the International Office of the IBEW for approval, the same as this Agreement.

Section 1.04. There shall be no stoppage of work either by strike or lockout because of any proposed changes in this Agreement or dispute over matters relating to this Agreement. All such matters must be handled as stated herein.

GRIEVANCES/DISPUTES:

Section 1.05. There shall be a Labor-Management Committee of three representing the Union and three representing the Employers. It shall meet regularly at such stated times as it may decide. However, it shall also meet within 48 hours when notice is given by either party. It shall select its own Chairman and Secretary. The Local Union shall select the Union representatives and the Chapter shall select the management representatives.

Section 1.06. All grievances or questions in dispute shall be adjusted by the duly authorized representative of each of the parties to this Agreement. In the event that these two are unable to adjust any matter within 48 hours, they shall refer the same to the Labor-Management Committee.

Section 1.07. All matters coming before the Labor-Management Committee shall be decided by a majority vote. Four members of the Committee, two from each of the parties hereto, shall be a quorum for the transaction of business, but each party shall have the right to cast the full vote of its membership and it shall be counted as though all were present and voting.

Section 1.08. Should the Labor-Management Committee fail to agree or to adjust any matter, such shall then be referred to the Council on Industrial Relations for the Electrical Contracting Industry for adjudication. The Council's decisions shall be final and binding.

Section 1.09. When any matter in dispute has been referred to conciliation or arbitration for adjustment, the provisions and conditions prevailing prior to the time such matters arose shall not be changed or abrogated until agreement has been reached or a ruling has been made.

Section 1.10. Any grievance not brought to the attention of responsible opposite parties to this Agreement in writing within ten (10) working days of its occurrence shall be deemed to no longer exist.

ARTICLE II EMPLOYER RIGHTS/UNION RIGHTS

Section 2.01. As used in this Agreement, the term "Employer" is defined to mean any person, firm or corporation whose main business is that of an electrical contractor, engaged as an Employer in the erecting, altering, installing, repairing, servicing, or maintaining of electrical wiring, devices, appliances or equipment, and also the purchasing of supplies and the selling of manufactured parts and products incorporated in such installations.

The following qualifications shall also be required of the Employer:

The Employer must have adequate technical knowledge and business experience. The Employer must maintain suitable financial status within the jurisdiction of this Agreement to meet payroll and fringe benefit requirements.

The Employer must maintain a place of business with a business telephone open to the public during normal business hours, shall have proper signs on his trucks and job sites where practical, and shall employ not less than one journeyman continuously. Only one member of any Firm, Partnership or Corporation may perform work with tools.

MANAGEMENT RIGHTS:

Section 2.02. The Union understands the Employer is responsible to perform the work required by the owner. The Employer shall, therefore, have no restrictions except those specifically provided for in the collective bargaining agreement, in planning, directing and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees, in transferring employees from job to job within the Local Union's geographical jurisdiction, in determining the need and number as well as the person who will act as Foreman, in requiring all employees to observe the Employer's and/or owner's rules and regulations not inconsistent with this Agreement, in requiring all employees to observe all safety regulations, and in discharging employees for proper cause.

FOREMAN CALL-OUT BY NAME:

Section 2.03. The employer shall have the right to call a Foreman by name provided:

- A) The employee has not quit his previous employer within the past two weeks.
- B) The employer shall notify the business manager in writing of the name of the individual who is to be requested for employment as a Foreman. Upon such request, the business manager shall refer said Foreman provided the name appears on the highest priority group.
- C) When an employee is called as a Foreman, he must remain as a Foreman for 500 hours or must receive a reduction in force.

WORKERS COMPENSATION INSURANCE:

Section 2.04. For all employees covered by this Agreement, the Employer shall carry Workers' Compensation Insurance, with a company authorized to do business in this state; Social Security; and such other protective insurance as may be required by the laws of the state in which the work is performed. He shall also make voluntary contributions to the State Unemployment Compensation Commission regardless of the number of employees.

UNION RECOGNITION:

Section 2.05 (a). The Employer recognizes the Union as the sole and exclusive representative of all its employees performing work within the jurisdiction of the Union for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

(b). The Employer understands that the Local Union's jurisdiction—both trade and territorial—is not a subject for negotiations but rather is determined solely within the IBEW by the International President and, therefore, agrees to recognize and be bound by such determinations.

WORK PRESERVATION:

Section 2.06 (a). In order to protect and preserve, for the employees covered by this Agreement, all work heretofore performed by them, and in order to prevent any device or subterfuge to avoid the protection and preservation of such work, it is hereby agreed as follows: If and when the Employer shall perform any on-site construction work of the type covered by this Agreement, under its own name or under the name of another, as a corporation, company, partnership, or any other business entity including a joint venture, wherein the Employer, through its officers, directors, partners, or stockholders, exercises either directly or indirectly, management control or majority ownership, the terms and conditions of this Agreement shall be applicable to all such work. All charges or violations of this Section shall be considered as a dispute and shall be processed in accordance with the provisions of this Agreement covering the procedure for the handling of grievances and the final and binding resolution of disputes.

(b). As a remedy for violations of this Section, the Labor-Management Committee, the Council on Industrial Relations for the Electrical Contracting Industry, and/or an independent arbitrator, as the case may be, are empowered, in their discretion and at the request of the Union, to require an Employer to (1) pay to affected employees covered by this Agreement, including registered applicants for employment, the equivalent of wages lost by such employees as a result of the violations; and (2) pay into the affected joint trust funds established under this Agreement any delinquent contributions to such funds which have resulted from the violations. Provision for this remedy herein does not make such remedy the exclusive remedy available to the Union for violation of this Section nor does it make the same or other remedies unavailable to the Union for violations of other Sections or other Articles of this Agreement.

(c). If, as a result of violations of this Section, it is necessary for the Union and/or the Trustees of the joint trust funds to institute court action to enforce an award rendered in accordance with subsection (b) above, or to defend an action which seeks to vacate such award, the Employer shall pay any accountants' and attorneys' fees incurred by the Union and/or Fund Trustees, plus cost of the litigation, which have resulted from the bringing of such court action.

NON-RESIDENT EMPLOYEES: (Portability)

Section 2.07. An Employer signatory to a collective bargaining agreement or to a letter of assent to an agreement with another IBEW Local Union, who signs an assent to this Agreement, may bring up to four bargaining unit employees employed in that Local Union's jurisdiction into this Local's jurisdiction and up to two bargaining unit employees per job from that Local's jurisdiction to this Local's jurisdiction for specialty or service and maintenance work. All charges of violations of this section shall be considered as a dispute and shall be processed in accordance with the provisions of this agreement for the handling of grievances with the exception that any decision of a local labor-management committee that may be contrary to the intent of the parties to the National Agreement on Employee Portability, upon recommendation of either or both the appropriate IBEW International Vice President or NECA Regional Executive Director, is subject to review, modification, or rescission by the Council on Industrial Relations.

FAVORED NATIONS:

Section 2.08. The Union agrees that if, during the life of this Agreement, it grants to any other Employer in the Electrical Contracting Industry on work covered by this Agreement, any better terms or conditions than those set forth in this Agreement, such better terms or conditions shall be made available to the Employer under this Agreement and the Union shall immediately notify the Employer of any such concession.

Section 2.09. No workman subject to employment of Employers operating under this Agreement shall himself become a contractor for the performance of any electrical work. Avoidance of the intent of the Section shall not be permitted by pretense of ownership of the business by an immediate member of the family.

Section 2.10. Workmen shall install all electrical work in a safe and workmanlike manner, and in accordance with the directions.

APPOINTMENT OF STEWARDS:

Section 2.11. The Union has the right to appoint Stewards at any shop and/or any job where workers are employed under the terms of this Agreement. The Employer shall be notified and furnished the name of the Steward. Such Stewards shall be allowed sufficient time during the regular working hours without loss of pay to see that the terms and conditions of this Agreement are observed at the shop or on the job. No Steward shall be discriminated against by any Employer because of the faithful performance of duties as Steward, nor shall any Steward be removed from the job until notice has been given to the Business Manager of the Union.

UNION JOB ACCESS:

Section 2.12. A representative of the Union shall be allowed access to any shop or job, at any reasonable time, where workers are employed under the terms of this Agreement.

PICKET LANGUAGE:

Section 2.13(a). It shall not be a violation of this Agreement and it shall not be cause for discharge or any other disciplinary action by the Employer against any employee for an employee to refuse to cross a lawfully established primary picket line whether at the premises of another Employer or the employee's own Employer.

(b). Any employee exercising such right shall carefully put away all tools, materials, equipment, or any other property of the Employer in a safe manner. Each employee will be responsible for any loss to the Employer for neglect in carrying out this provision but only when a safe place is provided for by the Employer.

Section 2.14. There shall be no limitations on production and no restriction on the full use of any machinery, tools, and equipment by workmen employed under the terms of this Agreement. Workmen shall be properly trained and/or certified if requested by the Employer. Cost of training shall be borne by the Joint Apprenticeship and Training Fund. Such certification must be carried by the Employee at all times.

TOOL LIST:

Section 2.15. Journeymen shall provide themselves with the following tools: knife, pencil, six foot rule, cutting pliers, channel lock type pliers, screwdriver 8" maximum, hammer, pipe wrench 14", cold chisel, center punch, hacksaw frame, small level, plumb bob, square, flashlight, keyhole saw, voltage tester.

All conduit used shall be cut and threaded at the job or shop. Where pipe machines for cutting and threading are used, they shall be operated by a Journeyman. When prefabrication work or conduit is cut and threaded in the shop or another job, it shall be dated, labeled and signed by the Journeyman doing the work. All such work shall be done in the jurisdiction of Local Union 840 under the terms and conditions of this Agreement.

Section 2.16. The Employer agrees to provide a suitable place on the job for the storage of workman's tools and clothes and shall allow sufficient time to gather and place tools, materials, equipment, etc. in the storage facilities by quitting time. Heat will be provided in inclement weather. In case of fire on the job, the Employer shall settle the fire loss for the benefit of himself and his employees. In the event that burglary occurs on the job by breaking and entering these storage facilities and the Journeyman's personal tools are stolen or destroyed by vandalism the Employer agrees to reimburse each Journeyman for the present value of his stolen or damaged tools, but in no case is the compensation to any Journeyman to exceed \$300.00.

Section 2.17. The Employer shall furnish all other necessary tools or equipment. Workers will be held responsible for the tools or equipment issued to them, provided the Employer furnishes the necessary lockers, tool boxes, or other safe place of storage. Tools must be taken out and put away during working hours.

UNION SECURITY:

Section 2.18. All Employees who are members of the Union on the effective date of this Agreement shall be required to remain members of the Union as a condition of Employment during the term of this Agreement. New Employees shall be required to become and remain members of the Union as a condition of employment from and after the eighth day following the date of employment or the effective date of the Agreement, whichever is later. All workmen shall receive at least the minimum wages and shall work under the conditions of the Agreement.

ANNULMENT/SUBCONTRACTING:

Section 2.19. The Local Union is a part of the International Brotherhood of Electrical Workers and any violation or annulment by an individual Employer of the approved Agreement of this or any other Local Union of the IBEW, other than violations of Paragraph 2 of this Section, will be sufficient cause for the cancellation of his Agreement by the Local Union after a finding has been made by the International President of the Union that such a violation or annulment has occurred.

The subletting, assigning, or transfer by an individual Employer of any work in connection with electrical work to any person, firm or corporation not recognizing the IBEW or one of its Local Unions as the collective bargaining representative of his employees on any electrical work in the jurisdiction of this or any other Local Union to be performed at the site of the construction, alteration, painting or repair of a building, structure or other work, will be deemed a material breach of this Agreement.

All charges of violations of Paragraph 2 of this Section shall be considered as a dispute and shall be processed in accordance with the provision of this Agreement covering the procedure for the handling of grievances and the final and binding resolution of disputes.

ARTICLE III**HOURS/WAGES/WORKING CONDITIONS****HOURS: (*Workday/Workweek*)****Section 3.01.**

a) Eight hours work between the hours of 8 a.m. and 4:30 p.m., with 30 minutes for a lunch period between noon and 12:30 p.m. shall constitute the workday. Five such days, Monday through Friday, shall constitute the workweek. The normal workday may be varied by no more than two (2) hours. The parties may further vary the normal work day upon mutual agreement.

b) FOUR 10-HOUR DAYS

The Employer, with 24-hour prior notice to the Union, may institute a workweek consisting of four (4) consecutive 10-hour days between the hours of 7 a.m. and 6 p.m., Monday through Thursday, with one-half hour allowed for a lunch period. Friday may be used as a make-up day, and if utilized, a minimum of eight hours must be scheduled. After 10 hours in a workday, or 40 hours in a workweek, overtime shall be paid at a rate of 1-1/2 times the regular rate of pay.

OVERTIME/HOLIDAYS:

Section 3.02. All work performed outside the regularly scheduled working hours and on Saturdays shall be paid for at one and one half (1 ½) times the straight time rate of pay. Overtime must be paid for all time worked in excess of eight (8) hours in the regular workday, Monday through Friday. Overtime must be paid for all time in excess of forty (40) hours in the work week. All work performed on Sundays and the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day, or days celebrated as such shall be paid for at double the straight time rate of pay. If a Holiday falls on Saturday, it will be celebrated on the Friday preceding and if it falls on Sunday, it will be celebrated on the Monday following the Holiday.

Section 3.03. No work shall be performed on Labor Day, except in case of emergency.

PAYDAY:**Section 3.04**

a) Wages shall be paid weekly by cash or check before quitting time on Friday at the job site. Not more than one calendar week's wages may be withheld (example; If payroll period ends on Sunday, payment to be made no later than Friday). In the event an Employer defaults in payment or check he shall then be required to pay by certified check or cash.

b) Employees may voluntarily allow for direct electronic deposit of wages on a weekly basis to the bank or credit union of the employee's choice. This manner of payment, once adopted, may not be changed except upon 14-day advance written notification between the employee and Employer with notification copied to the Union.

c) Any workmen laid off or discharged shall be paid all his wages due in full immediately. In the event the employee is not paid either on the regular day or when terminated, waiting time shall be charged at the regular straight time rate until payment is made, not to exceed eight (8) hours in any 24 hour period. Any workman who is laid off shall be allowed 30 minutes to gather his tools and belongings.

d) The Business Manager of the Local Union must be notified 48 hours in advance of any lay off, Saturdays, Sundays and Holidays not included.

e) Any man reporting for work being laid off prior to starting work without the Business Manager having been notified the day previous of such layoff, shall receive not less than four (4) hours to gather his tools and personal belongings and shall be paid off in full immediately. All layoff provisions of Section 3.04(c) shall apply to this Section.

CLASSIFICATIONS/WAGES:

Section 3.05(a). The minimum hourly rate of wages for the entire jurisdiction shall be as follows:

JOURNEYMAN WIREMAN	\$29.30
FOREMAN (110%)	\$32.25
GENERAL FOREMAN (120%)	\$35.15

Effective 6/1/13 - \$.85 cent increase and 6/1/14 - \$1.00 increase with allocation yet to be determined.

Percentages for Foreman, General Foreman and Apprentices to be rounded to the nearest nickel.

APPRENTICE WIREMAN – SIX (6) PERIODS

1ST PERIOD	40% of Journeyman Wireman Rate
2ND PERIOD	45% of Journeyman Wireman Rate
3RD PERIOD	50% of Journeyman Wireman Rate
4TH PERIOD	60% of Journeyman Wireman Rate
5TH PERIOD	70% of Journeyman Wireman Rate
6TH PERIOD	80% of Journeyman Wireman Rate

1ST and 2ND Periods Apprentices do not receive Local 840 Pension and Annuity contributions. All other benefits shall be paid at 100% of rate applicable to Journeyman classification. By mutual agreement, Apprentice rates to nearest five cents (\$0.05).

FRINGES:

Section 3.05 (b). The minimum contributions shall be as follows for Journeymen Wiremen in the above area listed in Section 3.05 (a). Benefits are paid per hour worked except NEBF which is a percentage of gross payroll and are paid in addition to the wage rate listed in item 3.05(a).

Health Insurance	\$ 8.15
Pension	5.27
Annuity	3.25
JATC	.70
NLMCC	.01
GLMCC	.10
AMF	.15
NEBF	3% of gross wages

The minimum straight-time rates of pay for Journeymen Wiremen shall be as follows: Per Article III, Section 3.12, "day shift" shall be hours worked between 8:00 A.M. and 4:30 P.M.; "second shift" is between 4:30 P.M. and 1:00 A.M.; and "third shift" is between 12:30 A.M. and 9:00 A.M.

First Shift Hours	\$29.30
Second Shift Hours	\$33.70
Third Shift Hours	\$36.65

Section 3.06. Workmen required working 40 feet or more above a floor or working platform on swinging toothpick scaffolds or boatswain chairs, shall receive \$.50 above the applicable rate of pay. Where safety nets are installed according to O.S.H.A. standards and/or other State Safety Standards and/or bucket trucks used with a safety belt and lanyards according to O.S.H.A. standards or other State Safety Standards, this high time rate shall not apply.

Section 3.06(a) Any workman working over 50 feet high shall receive \$1.00 above the applicable rate and any workman working over 100 feet high shall receive \$2.00 above the applicable rate. These rates shall not apply to workers in bucket trucks and motorized scaffolds where safety harnesses are used.

Section 3.07. When workmen are directed to report to a job but, do not start work due to lack of materials or other causes beyond their control, they shall receive two (2) hours pay unless notified one hour before scheduled starting time not to report. In the event that they begin work, they shall receive a minimum of four (4) hours.

If weather conditions are such that men cannot work, they may be shifted to other jobs for that day, however, the Foreman's quota will not be affected by this temporary transferal of workmen.

TRAVEL TIME:

Section 3.08. When workmen are directed by the Employer to report to the Employer's shop, the Employer shall furnish transportation and pay for traveling time from shop to job, job to job, and job to shop. Any employee requested and agreeing to use his own transportation for traveling from shop to job, job to job and job to shop shall be paid as per I.R.S. allocated amounts effective June 1st of each year.

When workmen are directed by the Employer to report directly to any job within the geographical jurisdiction covered by the Agreement, he shall start work at the starting time designated by the Employer and may work a maximum of eight (8) hours on the job at the regular rate of pay.

RATIO OF FOREMAN TO JOURNEYMAN:

Section 3.09. Foreman and General Foreman shall be appointed as follows: On all shifts requiring four (4) Journeymen, one Journeyman shall be designated Foreman.

On all shifts requiring ten (10) Journeymen, the Foreman shall be designated as supervisory.

On all shifts requiring fifteen (15) Journeymen, two Journeymen shall be designated as Foremen.

One Foreman shall be designated General Foreman and shall be supervisory. The second Foreman shall be designated a working Foreman.

On any job requiring more than two foremen, the General Foreman shall supervise foremen only and shall not at the same time supervise a crew.

After two or more foremen are required, no crew shall consist of more than ten (10) other electrical workers.

On all shifts requiring twenty-one (21) Journeymen, three Journeymen shall be designated as Foremen. One Foreman shall be designated General Foreman and shall be supervisory. The second Foreman shall also be designated as a supervisory Foreman. The third Foreman shall be designated as a working Foreman.

When thirty-one (31) Journeymen are employed on a shift and for each additional ten (10) Journeymen or fraction thereafter (e.g. 41, 51, 61, etc.) employed on a shift, one additional Foreman shall be designated. All Foremen shall be working Foremen except the General Foreman and one additional Foreman as designated by the Employer. Nothing in this Section shall prevent the Employer from designating additional Foremen or supervisory Foremen.

Supervisory Foremen as used in this Section shall mean that normal productive work shall not be performed by the Foreman except layout work, performing of final testing, handling of materials and other supervisory work.

Section 3.10. On jobs having one or more Foremen, workmen are not to take directions or orders from anyone except their immediate Foreman. No Foreman on one job shall at the same time perform work on another job.

UNION DUES DEDUCTION:

Section 3.11. The Employer agrees to deduct and forward to the Financial Secretary of the Local Union—upon receipt of a voluntary written authorization—the additional working dues from the pay of each IBEW member. The amount to be deducted shall be the amount specified in the approved Local Union Bylaws. Such amount shall be certified to the Employer by the Local Union upon request by the Employer.

SHIFT CLAUSE:

Section 3.12. When so elected by the contractor or mandated by the customer, multiple shifts of eight (8) hours for at least five (5) days' duration may be worked. When two (2) or three (3) shifts are worked:

The first shift (day shift) shall consist of eight (8) consecutive hours worked between the hours of 8:00 A.M. and 4:30 P.M. Workmen on the "day shift" shall be paid at the regular hourly rate of pay for all hours worked.

The second shift (swing shift) shall consist of eight consecutive hours worked between the hours of 4:30 P.M. and 1:00 A.M. Workmen on the "swing shift" shall be paid at the regular hourly rate of pay plus 15% for all hours worked.

The third shift (graveyard shift) shall consist of eight (8) consecutive hours worked between the hours of 12:30 A.M. and 9:00 A.M. Workmen on the "graveyard shift" shall be paid at the regular hourly rate of pay plus 25% for all hours worked.

The Employer shall be permitted to adjust the starting hours of the shift by up to two (2) hours in order to meet the needs of the customer.

If the parties to the Agreement mutually agree, the shift week may commence with the third shift (graveyard shift) at 12:30 A.M. Monday to coordinate the work with the customer's work schedule. However, any such adjustment shall last for at least five (5) consecutive days' duration unless mutually changed by the parties to this agreement.

An unpaid lunch period of thirty (30) minutes shall be allowed on each shift. All overtime work required before the established start time and after the completion of eight (8) hours of any shift shall be paid at one and one-half times the "shift" hourly rate.

There shall be no pyramiding of overtime rates and double the straight rate shall be the maximum compensation for any hour worked. There shall be no requirement for a day shift when either the second or third shift is worked.

ARTICLE IV

REFERRAL PROCEDURE

Section 4.01. In the interest of maintaining an efficient system of production in the Industry, providing for an orderly procedure of referral of applicants for employment, preserving the legitimate interests of employees in their employment status within the area and of eliminating discrimination in employment because of membership or non-membership in the Union, the parties hereto agree to the following system of referral of applicants for employment.

Section 4.02. The Union shall be the sole and exclusive source of referral of applicants for employment.

Section 4.03. The Employer shall have the right to reject any applicant for employment.

Section 4.04. The Union shall select and refer applicants for employment without discrimination against such applicants by reason of membership or non-membership in the Union and such selection and referral shall not be affected in any way by rules, regulations, bylaws, constitutional provisions or any other aspect or obligation of Union membership policies or requirements. All such selection and referral shall be in accord with the following procedure.

Section 4.05. The Union shall maintain a register of applicants for employment established on the basis of the Groups listed below. Each applicant for employment shall be registered in the highest priority Group for which he qualifies.

JOURNEYMAN WIREMAN -- JOURNEYMAN TECHNICIAN

GROUP I

All applicants for employment who have four or more years' experience in the trade, are residents of the geographical area constituting the normal construction labor market, have passed a Journeyman Wireman's examination given by a duly Constituted Inside Construction Local Union of the I.B.E.W. or have been certified as a Journeyman Wireman by any Inside Joint Apprenticeship and Training Committee, and who have been employed in the trade for a period of at least one year in the last four years in the geographical area covered by the collective bargaining agreement.

Group I status shall be limited to one Local Union at one time. An applicant who qualifies for Group I in a local union shall be so registered electronically and remain on Group I in that local union unless and until the applicant designates another local union as his or her Group I local union. If an applicant qualifies for Group I status in a local union other than his or her home local union and designates that local as his or her Group I local union, the business manager of the new Group I status local union shall by electronic means notify the business manager of the applicant's former Group I status local union.

- GROUP II All applicants for employment who have four or more years' experience in the trade and who have passed a Journeyman Wireman's examination given by a duly constituted Inside Construction Local Union of the I.B.E.W. or have been certified as a Journeyman Wireman by any Inside Joint Apprenticeship and Training Committee.
- GROUP III All applicants for employment, who have two or more years' experience in the trade, are residents of the geographical area constituting the normal construction labor market, and who have been employed for at least six months in the last three years in the geographical area covered by the collective bargaining agreement.
- GROUP IV All applicants for employment who have worked at the trade for more than one year.

Section 4.06. If the registration list is exhausted and the Local Union is unable to refer applicants for employment to the Employer within 48 hours from the time of receiving the Employer's request, Saturdays, Sundays and holidays excepted, the Employer shall be free to secure applicants without using the Referral Procedure but such applicants, if hired, shall have the status of "temporary employees".

Section 4.07. The Employer shall notify the Business Manager promptly of the names and Social Security numbers of such "temporary employees" and shall replace such "temporary employees" as soon as registered applicants for employment are available under the Referral Procedure.

Section 4.08. "Normal Construction Labor Market" is defined to mean the following geographical area plus the commuting distance adjacent thereto, which includes the area from which the normal labor supply is secured: All of Yates Co., Seneca Co., except the Towns of Lodi and Covert; Towns of Farmington, Manchester, Phelps, Hopewell, Geneva, Gorham, Seneca and Canandaigua in Ontario Co., Towns of Elbridge and Skaneateles in Onondaga Co., and all of Cayuga Co., except the Towns of Genoa, Sterling, Ira, Victory, Sempronious, Summerhill and Locke, Towns of Arcadia, Galen, Lyons and Savannah in Wayne Co.

The above geographical area is agreed upon by the parties to include the area defined by the Secretary of Labor to be the appropriate prevailing wage area under the Davis-Bacon Act to which the Agreement applies.

Section 4.09. "Resident" means a person who has maintained his permanent home in the above defined geographical area for a period of not less than one year or who, having had a permanent home in this area, has temporarily left with the intention of returning to this area as his permanent home.

Section 4.10. An "Examination" shall include experience rating tests if such examination shall have been given prior to the date of this procedure, but from and after the date of this procedure, shall include only written and/or practical examinations given by a duly constituted Inside Construction Local Union of the I.B.E.W. Reasonable intervals of time for examinations are specified as ninety (90) days. An applicant shall be eligible for examination if he has four years' experience in the trade.

Section 4.11. The Union shall maintain an "Out of Work List" which shall list the applicants within each Group in chronological order of the dates they register their availability for employment.

RE-REGISTRATION:

Section 4.12. An applicant who has registered on the "Out of Work List" must renew his application every 30 days or his name will be removed from the List.

Section 4.13. An applicant who is hired and who receives, through no fault of his own, work of forty hours or less shall, upon re-registration, be restored to his appropriate place within his Group.

Section 4.14(a) Employers shall advise the Business Manager of the Local Union of the number of applicants needed. The Business Manager shall refer applicants to the Employer by first referring applicants in Group I in the order of their place on the "Out of Work List" and then referring applicants in the same manner successively from the "Out of Work List" in Group II, then Group III, and then Group IV. Any applicant who is rejected by the Employer shall be returned to his appropriate place within his GROUP and shall be referred to other employment in accordance with the position of his GROUP and his place within his Group.

REPEATED DISCHARGE:

Section 4.14(b). An applicant who is discharged for cause two times within a 12-month period shall be referred to the neutral member of the Appeals Committee for a determination as to the applicant's continued eligibility for referral. The neutral member of the Appeals Committee shall, within three business days, review the qualifications of the applicant and the reasons for the discharges. The neutral member of the Appeals Committee may, in his or her sole discretion: (1) require the applicant to obtain further training from the JATC before again being eligible for referral; (2) disqualify the applicant for referral for a period of four weeks, or longer, depending on the seriousness of the conduct and/or repetitive nature of the conduct; (3) refer the applicant to an employee assistance program, if available, for evaluation and recommended action; or (4) restore the applicant to his/her appropriate place on the referral list.

Section 4.15. The only exceptions which shall be allowed in this order of referral are as follows:

(a). When the Employer states bona fide requirements for special skills and abilities in his request for applicants, the Business Manager shall refer the first applicant on the register possessing such skills and abilities.

Section 4.16. An Appeals Committee is hereby established composed of one member appointed by the Union, one member appointed by the Employer or the Association, as the case may be, and a Public Member appointed by both these members.

Section 4.17. It shall be the function of the Appeals Committee to consider any complaint of any employee or applicant for employment arising out of the administration by the Local Union of Sections 4.04 through 4.15 of the Agreement. The Appeals Committee shall have the power to make a final and binding decision on any such complaint which shall be complied with by the Local Union. The Appeals Committee is authorized to issue procedural rules for the conduct of its business but it is not authorized to add to, subtract from, or modify any of the provisions of this Agreement and its decisions shall be in accord with this Agreement.

Section 4.18. A representative of the Employer or of the Association, as the case may be, designated to the Union in writing, shall be permitted to inspect the Referral Procedure records at any time during normal business hours.

Section 4.19. A copy of the Referral Procedure set forth in this Agreement shall be posted on the Bulletin Board in the offices of the Local Union and in the offices of the Employers who are parties to this Agreement.

Section 4.20. Apprentices shall be hired and transferred in accordance with the Apprenticeship provisions of the Agreement between the parties.

Section 4.21. When making reductions in the number of employees due to lack of work, Employers shall use the following procedure:

- (a). Temporary employees, if any are employed, shall be laid off first. Then employees in Group IV shall be laid off next, if any are employed in this Group. Next to be laid off are employees in Group III, if any are employed in this group, then those in Group II, and then those in Group I.
- (b). Paragraph (a) will not apply as long as the special skills requirement as provided for in Section 4.15(a) is required.
- (c). Supervisory employees covered by the terms of this Agreement will be excluded from layoff as long as they remain in a supervisory capacity. When they are reduced to the status of Journeyman, they will be slotted in the appropriate group in paragraph (a) above.

Section 4.22. Worker Recall: An employer, with the consent of the employee, shall have the right to recall for employment, any former employee that the employer has laid off, provided that;

- the Recall applies only to individuals who have actually worked for the employer,
- the former employee is in the highest level Group on the referral list containing applicants available for work, regardless of the individual's position on the list.
- the recall provision will apply to the immediate past employee and/or any previous employer that the individual is eligible for unemployment benefits chargeable to that employer, and;
- the recall is made within fourteen (14) days from the time of the layoff;
- the former employee has not quit his most recent employer under this agreement within the two weeks prior to the recall request, and
- the former employee is not an apprentice

ARTICLE V
STANDARD INSIDE APPRENTICESHIP & TRAINING LANGUAGE

Section 5.01. There shall be a local Joint Apprenticeship and Training Committee (JATC) consisting of a total of either 6 or 8 members who shall also serve as Trustees to the local apprenticeship and training trust. An equal number of members (either 3 or 4) shall be appointed, in writing, by the local chapter of the National Electrical Contractors Association (NECA) and the local union of the International Brotherhood of Electrical Workers (IBEW).

The local apprenticeship standards shall be in conformance with national guideline standards and industry policies to ensure that each apprentice has satisfactorily completed the NJATC required hours and course of study. All apprenticeship standards shall be registered with the NJATC before being submitted to the appropriate registration agency.

The JATC shall be responsible for the training of apprentices, journeymen, installers, technicians, and all others (unindentured, intermediate journeymen, etc.)

Section 5.02 All JATC member appointments, re-appointments and acceptance of appointments shall be in writing. Each member shall be appointed for a 3 year term, unless being appointed for a lesser period of time to complete an unexpired term. The terms shall be staggered, with one (1) term from each side expiring each year. JATC members shall complete their appointed term unless removed for cause by party they represent or they voluntarily resign. All vacancies shall be filled immediately.

The JATC shall select from its membership, but not both from the same party, a Chairman and a Secretary who shall retain voting privileges. The JATC will maintain one (1) set of minutes for JATC committee meetings and a separate set of minutes for Trust meetings. The JATC should meet on a monthly basis, and also upon the call of the Chairman.

Section 5.03. Any issue concerning an apprentice or an apprenticeship matter shall be referred to the JATC for its review, evaluation, and resolve; as per standards and policies. If the JATC deadlocks on any issue, the matter shall be referred to the Labor-Management Committee for resolution as outlined in Article I of this agreement; except for trust fund matters, which shall be resolved as stipulated in the local trust instrument.

Section 5.04. There shall be only one (1) JATC and one (1) local apprenticeship and training trust. The JATC may, however, establish joint subcommittees to meet specific needs, such as residential or telecommunication apprenticeship. The JATC may also establish a subcommittee to oversee an apprenticeship program within a specified area of the jurisdiction covered by this agreement.

All subcommittee members shall be appointed, in writing, by the party they represent. A subcommittee member may or may not be a member of the JATC.

Section 5.05. The JATC may select and employ a part-time or a full-time Training Director and other support staff, as it deems necessary. In considering the qualification, duties, and responsibilities of the Training Director, the JATC should review the Training Director's Job Description provided by the NJATC. All employees of the JATC shall serve at the pleasure and discretion of the JATC.

Section 5.06. To help ensure diversity of training, provide reasonable continuous employment opportunities, and comply with apprenticeship rules and regulations, the JATC, as the program sponsor, shall have full authority for issuing all job training assignments and for transferring apprentices from one employer to another. The employer shall cooperate in providing apprentices with needed work experiences. The local union referral office shall be notified, in writing, of all job training assignments. If the employer is unable to provide reasonable continuous employment for apprentices, the JATC is to be so notified.

Section 5.07. All apprentices shall enter the program through the JATC as provided for in the registered apprenticeship standards and selection procedures.

An apprentice may have their indenture canceled by the JATC at any time prior to completion as stipulated in the registered standards. Time worked and accumulated in apprenticeship shall not be considered for local union referral purposes until the apprentice has satisfied all conditions of apprenticeship. Individuals terminated from apprenticeship shall not be assigned to any job in any classification, or participate in any related training, unless they are reinstated in apprenticeship as per the standards, or they qualify through means other than apprenticeship, at some time in the future, but no sooner than two years after their class has completed apprenticeship, and they have gained related knowledge and job skills to warrant such classification.

Section 5.08. The JATC shall select and indenture a sufficient number of apprentices to meet local manpower needs. The JATC is authorized to indenture the number of apprentices necessary to meet the job site ratio as per Section 5.12.

Section 5.09. Though the JATC cannot guarantee any number of apprentices; if a qualified employer requests an apprentice, the JATC shall make every effort to honor the request. If unable to fill the request within ten (10) working days, the JATC shall select and indenture the next available person from the active list of qualified applicants. An active list of qualified applicants shall be maintained by the JATC as per the selection procedures.

Section 5.10. To accommodate short-term needs when apprentices are unavailable, the JATC shall assign unindentured workers who meet the basic qualification for apprenticeship. Unindentured workers shall not remain employed if apprentices become available for OJT assignment. Unindentured workers shall be used to meet job site ratios except on wage and hour (prevailing wage) job sites.

Before being employed, the unindentured person must sign a letter of understanding with the JATC and the employer - agreeing that they are not to accumulate more than two thousand (2,000) hours as an unindentured, that they are subject to replacement by indentured apprentices and that they are not to work on wage and hour (prevailing wage) job sites.

Should an unindentured worker be selected for apprenticeship, the JATC will determine, as provided for in the apprenticeship standards, if some credit for hours worked as an unindentured will be applied toward the minimum OJT hours of apprenticeship.

The JATC may elect to offer voluntary related training to unindentured; such as Math Review, English, Safety, Orientation/Awareness, Introduction to OSHA, First-Aid and CPR. Participation shall be voluntary.

Section 5.11. The employer shall contribute to the local health and welfare plans and to the National

Electrical Benefit Fund (NEBF) on behalf of all apprentices and unindentured. Contributions to other benefit plans may be addressed in other sections of this agreement.

Section 5.12. Each job site shall be allowed a ratio of 2 apprentice(s) for every 3 Journeyman Wiremen(man) .

Number of Journeymen	Maximum Number of Apprentices/ Unindentured
1 to 3	2
4 to 6	4
etc.	etc.

The first person assigned to any job site shall be a Journeyman Wireman.

A job site is considered to be the physical location where employees report for their work assignments. The employer's shop (service center) is considered to be a separate, single job site. All other physical locations where workers report for work are each considered to be a single, separate job site.

Section 5.13. An apprentice is to be under the supervision of a Journeyman Wireman at all times. This does not imply that the apprentice must always be in sight of a Journeyman Wireman. Journeymen are not required to constantly watch the apprentice. Supervision will not be of a nature that prevents the development of responsibility and initiative. Work may be laid out by the employer's designated supervisor or journeyman based on their evaluation of the apprentice's skills and ability to perform the job tasks. Apprentices shall be permitted to perform job tasks in order to develop job skills and trade competencies. Journeymen are permitted to leave the immediate work area without being accompanied by the apprentice.

Apprentices, who have satisfactorily completed the first four years of related classroom training using the NJATC curriculum and accumulated a minimum of 6,500 hours of OJT with satisfactory performance, shall be permitted to work alone on any job site and receive work assignments in the same manner as a Journeyman Wireman.

An apprentice shall not be the first person assigned to a job site and apprentices shall not supervise the work of others.

Section 5.14. Upon satisfactory completion of apprenticeship, the JATC shall issue all graduating apprentices an appropriate diploma from the NJATC. The JATC shall encourage each graduating apprentice to apply for college credit through the NJATC. The JATC may also require each apprentice to acquire any electrical license required for journeymen to work in the jurisdiction covered by this Agreement.

Section 5.15. The parties to this Agreement shall be bound by the Local Joint Apprenticeship Training Trust Fund Agreement which shall conform to Section 302 of the Labor-Management Relations Act of 1947 as amended, ERISA, and other applicable regulations.

The Trustees authorized under this Trust Agreement are hereby empowered to determine the reasonable value of any facilities, materials, or services furnished by either party. All funds shall be handled and disbursed in accordance with the Trust Agreement.

Section 5.16. All Employers subject to the terms of this Agreement shall contribute the amount of funds specified by the parties signatory to the local apprenticeship and training trust agreement. The current rate of contribution is listed in Section 3.05. This sum shall be due the Trust Fund by the same date as is their payment to the NEBF under the terms of the Restated Employees Benefit Agreement and Trust.

ARTICLE VI FRINGE BENEFITS

NEBF:

Section 6.01. It is agreed that in accord with the Employees Benefit Agreement of the National Electrical Benefit Fund ("NEBF"), as entered into between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers on September 3, 1946, as amended, and now delineated as the Restated Employees Benefit Agreement and Trust, that unless authorized otherwise by the NEBF the individual Employer will forward monthly to the NEBF's designated local collection agent an amount equal to 3% of the gross monthly labor payroll paid to, or accrued by, the employees in this bargaining unit, and a completed payroll report prescribed by the NEBF. The payment shall be made by check or draft and shall constitute a debt due and owing to the NEBF on the last day of each calendar month, which may be recovered by suit initiated by the NEBF or its assignee. The payment and the payroll report shall be mailed to reach the office of the appropriate local collection agent not later than fifteen (15) calendar days following the end of each calendar month.

The individual Employer hereby accepts, and agrees to be bound by, the Restated Employees Benefit Agreement and Trust.

An individual Employer who fails to remit as provided above shall be additionally subject to having his agreement terminated upon seventy-two (72) hours' notice in writing being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the appropriate local collection agent.

The failure of an individual Employer to comply with the applicable provisions of the Restated Employees Benefit Agreement and Trust shall also constitute a breach of this Agreement.

Section 6.02. To promote harmony between the Electrical Workers and their Employers and to give the Employees a fuller sense of financial security, the Employers hereby agree to contribute to the various fringe benefit funds as provided for in the other Sections of this Article.

All Funds shall be administered by Boards of Trustees with equal representation on the Boards of the Employer and the Employee Groups in accordance with all existing Federal and State laws and regulations and any subsequently enacted applicable legislation.

The Employers agree to comply with all rules and regulations for the operation and maintenance of the Funds adopted by the Board of Trustees and will submit monthly payments and reports to the Office of the Funds on forms furnished by the Funds. These forms shall be combined in conjunction with the NEBF forms for the reporting of all Fringe Benefit and deductions required under the terms of this Agreement.

The forms shall provide the following information: Dates payroll week's end, hours straight time worked and hours overtime worked, total wages paid and amount of working dues deducted for each Employee.

The payments and payroll reports shall be mailed to reach the Fund Office not later than fifteen (15) calendar days following the end of each calendar month.

Individual Employers who fail to remit as provided above shall be additionally subject to having his Agreement terminated upon seventy-two (72) hours notice in writing being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the Funds Office.

The entire cost of setting up a Fund and for its continued operation and maintenance shall be borne by the Fund.

At any time a Fund should terminate and the obligation of the Employer to pay into a Fund should cease, it is agreed that the Employer at such time immediately increase the rate of hourly pay of the Employee by the amount he would normally pay into the Fund.

Section 6.02 (b). The Employers shall submit one (1) monthly combined check payable to the IBEW Local Union 840 Benefit Funds for the Health, Pension, Annuity and Educational Trust (JATC) Funds.

Section 6.03. I.B.E.W. LOCAL 840 HEALTH INSURANCE FUND – The Employers agree to pay into a Health Insurance Fund as specified in Section 3.05 of this Agreement an amount per hour for each man hour worked by Employees covered under this Agreement.

Section 6.04. I.B.E.W. LOCAL 840 PENSION TRUST FUND – The Employers agree to pay into a Pension Trust Fund as specified in Section 3.05 of this Agreement an amount per hour for each man hour worked by Employees covered under this Agreement.

Section 6.05. I.B.E.W. LOCAL 840 EDUCATIONAL TRUST FUND (JATC) – The Employers agree to pay into an Educational Trust Fund in accordance with Article III, Section 3.05, the amount per hour for each man hour worked by Employees covered under this Agreement.

Section 6.06. DUES - The Employer agrees to deduct and forward to the Financial Secretary of the Local Union – upon receipt of a voluntary written authorization – the additional working dues from the pay of each I.B.E.W. member. The amount to be deducted shall be the amount specified in the approved Local Union Bylaws. Such amount shall be certified to the Employer by the Local Union upon request by the Employer.

Section 6.07. BONDING – An Employer contractor who has not had two years of covered employment requiring payment of contributions and deductions to the Funds and the Local Union herein shall be required to post a single bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) securing the payment of these Funds and the Local Union deductions against any default. A copy of said bond shall be furnished to Local Union 840, I.B.E.W. and the NECA office for their files. Upon proof of no default for two years, the requirement for furnishing the bond shall be waived. However, in the event of

any default the parties to the Agreement jointly through the Fund Trustees may require such bond from an Employer. An Employer from another I.B.E.W. jurisdiction, upon proof of no default for two years for Funds and deductions in that jurisdiction shall not be required to post a bond. But upon default, this Employer is subject to the same conditions as set forth above while working in this jurisdiction.

Section 6.08. I.B.E.W. LOCAL 840 ANNUITY TRUST FUND – The Employer hereby agrees to pay into the Annuity Fund as specified in Section 3.05 of this Agreement an amount per hour for each man hour worked by Employees covered under this Agreement.

If at any time the Annuity Fund should terminate and the obligation of the Employer to pay into the Fund should cease, it is agreed the Employer at such time shall immediately increase the hourly pay of the Employee by the amount he would normally pay into the Fund.

The Employers and all Employers operating under this Agreement shall comply with and be bound by the terms of the instruments setting forth the Annuity Fund of Local No. 840, International Brotherhood of Electrical Workers. These documents are available for inspection at the Fund Office.

This Annuity Fund shall be administered by a Board of Trustees with equal representation on the Board by Employers and the Employee groups in accordance with all existing applicable Federal and State Laws and regulations and any subsequent enacted legislation applicable thereto. The entire expense for the setting up of this Fund and for its continued operation and maintenance shall be borne by the Fund.

Section 6.09. COPE - I hereby authorize the Company to deduct from my pay the sum of ten cents (\$.10) per hour actually worked and forward that amount to the International Brotherhood of Electrical Workers, AFL-CIO Committee on Political Education, 900 7th Street, N.W., Washington, D.C. 20001. This authorization is signed voluntarily and on the understanding that the IBEW-COPE will use that money to make political contributions and expenditures in connection with federal, state and local elections and that this voluntary authorization is in response to a joint fund raising effort by the I.B.E.W. and the AFL-CIO.

Section 6.10. UNITED WAY CONTRIBUTION – I hereby authorize the Company to deduct from my pay the sum of ten cents (\$.10) per hour actually worked, payable to The United Way, and forward that amount to IBEW Local Union 840. This authorization is signed voluntarily and on the understanding that the IBEW Local 840 will forward that money as a donation to the United Way on my behalf.

ARTICLE VII
NATIONAL ELECTRICAL INDUSTRY FUND (NEIF)

Section 7.01. Each individual Employer shall contribute an amount not to exceed one percent (1%) nor less than .2 of 1% of the productive electrical payroll as determined by each local Chapter and approved by the Trustees, with the following exclusions:

- 1) Twenty-five percent (25%) of all productive electrical payroll in excess of 75,000 man-hours paid for electrical work in any one Chapter area during any one calendar year but not exceeding 150,000 man hours.
- 2) One hundred percent (100%) of all productive electrical payroll in excess of 150,000 man-hours paid for electrical work in any one Chapter area during any one calendar year.

(Productive electrical payroll is defined as the total wages including overtime paid with respect to all hours worked by all classes of electrical labor for which a rate is established in the prevailing labor area where the business is transacted.)

Payment shall be forwarded monthly to the National Electrical Industry Fund in a form and manner prescribed by the Trustees no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. Failure to do so will be considered a breach of this Agreement on the part of the individual Employer.

ARTICLE VIII

LOCAL LABOR-MANAGEMENT COOPERATION COMMITTEE (LMCC)

Section 8.01. The parties agree to participate in a Labor-Management Cooperation Fund, under authority of Section 6(b) of the Labor Management Cooperation Act of 1978, 29 U.S.C. §175(a) and Section 302(c)(9) of the Labor Management Relations Act, 29 U.S.C. §186(c)(9). The purposes of this Fund include the following:

- 1) to improve communications between representatives of Labor and Management;
- 2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;
- 3) to assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;
- 4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the electrical construction industry;
- 5) to sponsor programs which improve job security, enhance economic and community development, and promote the general welfare of the community and industry;
- 6) to engage in research and development programs concerning various aspects of the industry, including, but not limited to, new technologies, occupational safety and health, labor relations, and new methods of improved production;
- 7) to engage in public education and other programs to expand the economic development of the electrical construction industry;
- 8) to enhance the involvement of workers in making decisions that affect their working lives; and,
- 9) to engage in any other lawful activities incidental or related to the accomplishment of these purposes and goals.

Section 8.02. The Fund shall function in accordance with, and as provided in, its Agreement and Declaration of Trust and any amendments thereto and any other of its governing documents. Each Employer hereby accepts, agrees to be bound by, and shall be entitled to participate in the LMCC, as provided in said Agreement and Declaration of Trust.

Section 8.03. Each employer shall contribute as per Section 3.05 per hour worked. Payment shall be forwarded monthly, in a form and manner prescribed by the Trustees, no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. The Finger Lakes Chapter, NECA, or its designee, shall be the collection agent for this Fund.

Section 8.04. If an Employer fails to make the required contributions to the Fund, the Trustees shall have the right to take whatever steps are necessary to secure compliance. In the event the Employer is in default, the Employer shall be liable for a sum equal to 15% of the delinquent payment, but not less than the sum of twenty dollars (\$20), for each month payment of contributions is delinquent to the Fund, such amount being liquidated damages, and not a penalty, reflecting the reasonable damages incurred by the Fund due to the delinquency of the payments. Such amount shall be added to and become a part of the contributions due and payable, and the whole amount due shall bear interest at the rate of ten percent (10%) per annum until paid. The Employer shall also be liable for all costs of collecting the payment together with attorneys' fees.

ARTICLE IX

NATIONAL LABOR-MANAGEMENT COOPERATION COMMITTEE (NLMCC)

Section 9.01. The parties agree to participate in the NECA-IBEW National Labor-Management Cooperation Fund, under authority of Section 6(b) of the Labor Management Cooperation Act of 1978, 29 U.S.C. §175(a) and Section 302(c)(9) of the Labor Management Relations Act, 29 U.S.C. §186(c)(9). The purposes of this Fund include the following:

- 1) to improve communication between representatives of Labor and Management;
- 2) to provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organization effectiveness;
- 3) to assist worker and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;
- 4) to study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the electrical construction industry;
- 5) to sponsor programs which improve job security, enhance economic and community development, and promote the general welfare of the community and the industry;
- 6) to encourage and support the initiation and operation of similarly constituted local labor-management cooperation committees;
- 7) to engage in research and development programs concerning various aspects of the industry, including, but not limited to, new technologies, occupational safety and health, labor relations, and new methods of improved production;
- 8) to engage in public education and other programs to expand the economic development of the electrical construction industry;
- 9) to enhance the involvement of workers in making decisions that affect their working lives; and
- 10) to engage in any other lawful activities incidental or related to the accomplishment of these purposes and goals.

Section 9.02. The Fund shall function in accordance with, and as provided in, its Agreement and Declaration of Trust, and any amendments thereto and any other of its governing documents. Each Employer hereby accepts, agrees to be bound by, and shall be entitled to participate in the NLMCC, as provided in said Agreement and Declaration of Trust.

Section 9.03. Each employer shall contribute one cent (1¢) per hour worked under this Agreement up to a maximum of 150,000 hours per year. Payment shall be forwarded monthly, in a form and manner prescribed by the Trustees, no later than fifteen (15) calendar days following the last day of the month in which the labor was performed. Finger Lakes Chapter, NECA, or its designee, shall be the collection agent for this Fund.

Section 9.04. If an Employer fails to make the required contributions to the Fund, the Trustees shall have the right to take whatever steps are necessary to secure compliance. In the event the Employer is in default, the Employer shall be liable for a sum equal to 15% of the delinquent payment, but not less than the sum of twenty dollars (\$20), for each month payment of contributions is delinquent to the Fund, such amount being liquidated damages, and not a penalty, reflecting the reasonable damages incurred by the Fund due to the delinquency of the payments. Such amount shall be added to and become a part of the contributions due and payable, and the whole amount due shall bear interest at the rate of ten percent (10%) per annum until paid. The Employer shall also be liable for all costs of collecting the payment together with attorneys' fees.

ARTICLE X

ADMINISTRATIVE MAINTENANCE FUND

Section 10.01. Each employer signatory to this agreement shall contribute the amount specified in Article III, Section 3.05 per hour worked covered by this Agreement to the Administrative Maintenance Fund (AMF).

The Fund shall be administered solely by the Finger Lakes New York Chapter, National Electrical Contractors Association, Inc., and shall be utilized to pay for the Association's cost of the labor contract administration including negotiations, labor relations, disputes and grievance representation performed on behalf of the signatory Employers. In addition, all other administrative functions required of management, such as service on all funds as required by Federal Law.

The AMF contribution shall be submitted with all other benefits as delineated in the labor agreement by the fifteenth (15) of the following month in which they are due to the administrator receiving funds. In the event any Employer is delinquent in submitting the

required Administrative Maintenance Fund to the designated administrator, the administrator shall have the authority to recover any funds, along with any attorney fees, court costs, interest at one percent (1%) per month and liquidated damages receiving such funds. The enforcement for delinquent payments to the fund shall be the sole responsibility of the fund or Chapter, or Employers, and not the Local Union. The fund may not be used in any manner detrimental to the Local Union or the IBEW.

ARTICLE XI SAFETY

Section 11.01. There shall be a Joint Safety Committee consisting of three members representing the Chapter and three members representing the Union. The duties of this Committee shall be to develop and recommend safe work rules that are equal to or greater than the Standards for Construction as established by the Occupational Safety and Health Act of 1970, or other applicable federal or state laws. These safe work rules as recommended by the Committee shall be submitted to the parties to this Agreement to be used as part of this collective bargaining process. Any proposed changes or revisions in these safe work rules shall first be considered by this Committee for their concurrence and recommendation before being acted upon by the parties to this Agreement.

It shall also be the function of this Committee to study and update these safe work rules for the benefit of both parties. This Committee shall meet at least once each quarter and also when called by the Chairman or when called by a majority of the current Committee members.

Section 11.02. Members of the Joint Safety Committee shall be selected by the party they represent. Their term of office shall be 3 years unless removed by the party they represent. The term of one Chapter and one Union representative shall expire each year with successors to be determined in the same manner as the original appointments were made. A Committee member is eligible to succeed himself.

Section 11.03. On all energized circuits of 440 volts or over, as a safety measure, two or more Journeymen shall work together.

Rubber gloves and protective rubber goods to be used on voltage above 500 volts must be tested and date stamped not more than 30 days prior to use. Rubber gloves must not be used without the protective leather outer glove.

All Employees engaged in continuous burning and welding operations or in work that may be hazardous to the eyes, shall be furnished proper protective gear such as welding helmets, gloves and safety goggles, and they must be worn by the Employee.

All Employees exposed to the hazards of fall objects shall be furnished an approved hard hat, either of new or sterilized, with a proper liner for winter operation. These hard hats must be worn by the Employee when so requested by the Employer.

Each job must have a completely equipped Class A First Aid Kit available at all times. Suitable drinking water facilities shall be provided, such as a closed insulated container with individual drinking cups, with ice in hot weather.

Employees required to work in wet locations or in rainy weather shall be furnished rain gear and boots. It is required that all rain gear and boots issued by the Employer remain on the jobsite.

Employees shall not be forced to use ladders, scaffolds, equipment or tools that are unsafe.

Employees who are issued any protective equipment or tools shall return them when so requested, or upon termination.

No circuit shall be connected to panel until load is completely connected.

Section 11.04. Employers contemplating doing work in the so called "hot" areas of atomic laboratories, atomic plants, or on the premises of anyone engaged in the handling or storing of radioactive materials, shall inform and receive permission from the Local Union before sending men into such a building or area.

It is agreed that all safety regulations of Federal, State and local governments as well as those of the owner shall be complied with.

Section 11.05. The Employer recognizes the need for adequate sanitary facilities on each job. Therefore, individual Employers shall see that their Employees are protected by no less than the minimum standards set forth in the applicable laws. In addition, on jobs where more than twenty-five (25) workmen are employed by the electrical contractor, he shall see that separate facilities are provided for these workmen.

EMPLOYER'S RESPONSIBILITY:

Section 11.06. It is the Employer's exclusive responsibility to insure the safety of its employees and their compliance with these safety rules and standards.

ARTICLE XII UNION RIGHTS

12.01 Section. The Union reserves the right to discipline its members for violations of its laws, rules and Agreements.

Section 12.02. This Agreement does not deny the right of the Union or its representative to render assistance to other labor organizations by removal of its members from jobs when necessary and when the Union or its proper representatives decide to do so, but no removal shall take place until notice is given to the Employer involved.

Section 12.03. When such removal takes place, the Union or its representatives shall direct the workmen on such jobs to put away all tools, materials, equipment or any other property of the Employer in a safe and careful manner. The Union will be financially responsible for any loss of the new Employer if it neglects to carry out this provision, but only when a safe place is provided by the Employer.

Section 12.04. The representative of the Union shall be allowed excess to any building at any reasonable time where members of the Union are employed.

Section 12.05. The employer recognizes the right of the Union to appoint a steward at a shop or on a job where workmen are employed under the terms of this Agreement. Such stewards should be allowed sufficient time during regular working hours to see that terms and conditions of this Agreement are observed at his shop or on his job.

In the event a controversy is not adjusted between the steward and the Employer, the steward shall notify the Business Manager of the Union. If the Business Manager and the Employer cannot reach a mutually satisfactory agreement, the case shall be disposed of in accordance with Article I of this Agreement, relative to disputes and grievance. At no time shall any steward be discriminated against by an Employer because of his faithful performance of his duties as a steward.

ARTICLE XIII

NATIONAL ELECTRICAL 401K PLAN

Section 13.01 It is agreed that the individual Employer, in accord with the National Electrical 401(k) Plan Agreement and Trust ("Agreement and Trust") as entered into between the National Electrical Contractors Association and the International Brotherhood of Electrical Workers, as amended, will participate in the National Electrical 401(k) Plan ("NEFP").

The Individual Employer recognizes that applicable rules require contributions to be transmitted to a 401(k) plan as soon as they can reasonably be segregated from the general assets of the employer. The Trustees of the NEFP strongly encourage all contributing employers to regularly remit to the NEFP or its designee any and all bargaining unit employee elective deferrals within seven business days of the date when the Employer receives or withholds such employee elective deferrals. However, in recognition that some employers may be unable reasonably to segregate participant contributions from their general assets more frequently than the standard monthly processing cycle for participant contributions to pension plans, as noted in U.S. Department of Labor Field Assistance Bulletin 2003-2, all contributions must be remitted by the fifteenth (15th) of the month following the month in which the amounts would otherwise have been payable to the participant. In all events, contributions not remitted by this date shall constitute a debt due and owing to the NEFP. In making such contributions, the individual Employer shall utilize the NEFP's electronic remittance system. Further, in agreeing to participate in the NEFP, the individual Employer agrees to cooperate with the NEFP by submitting all reasonably requested documents and information necessary for the NEFP to perform all required testing of the NEFP under the tax laws.

The Chapter and/or the individual Employer, as the case may be, and the Local Union certify that no existing defined benefit plan was terminated or modified in any manner solely as a condition upon or as a result of the adoption of the NEFP. This provision does not interfere with the rights and obligations of such local plan(s)' trustees to make changes to the plan(s) pursuant to the needs of the plan(s), their fiduciary duty, and the requirements of ERISA, the Pension Protection Act, or other laws and regulations.

Inasmuch as the NEFP is intended to offer bargaining unit employees the opportunity to defer current salary into a retirement savings plan and not to replace any existing employer-funded defined benefit plan, no employer contributions will be required or accepted on behalf of individuals for hours worked under the terms of this agreement.

The individual Employer hereby accepts, and agrees to be bound by, the Agreement and Trust.

An individual Employer who fails to remit employee elective deferrals as provided above shall be subject, in addition to all remedies afforded by law or in the Agreement and Trust, to having its

Participating in the NEFP suspended or terminated at the discretion of the Trustees of the NEFP upon written notice to the individual Employer. An individual Employer who fails to remit as provided above shall be additionally subject to having this agreement terminated upon seventy-two (72) hours' notice in writing being served by the Union, provided the individual Employer fails to show satisfactory proof that the required payments have been paid to the appropriate local collection agent.

The failure of an individual Employer to comply with the applicable provisions of the Agreement and Trust shall also constitute a breach of his labor agreement.

ARTICLE XIV
SUBSTANCE ABUSE

Section14.01. The dangers and costs that alcohol and other chemical abuses can create in the electrical contracting industry in terms of safety and productivity are significant. The parties to this Agreement resolve to combat chemical abuse in any form and agree that, to be effective, programs to eliminate substance abuse and impairment should contain a strong rehabilitation component. The local parties recognize that the implementation of a drug and alcohol policy and program must be subject to all applicable federal, state, and local laws and regulations. Such policies and programs must also be administered in accordance with accepted scientific principles, and must incorporate procedural safeguards to ensure fairness in application and protection of legitimate interests of privacy and confidentiality. To provide a drug-free workforce for the Electrical Construction Industry, each IBEW local union and NECA chapter shall implement an area-wide Substance Abuse Testing Policy. The policy shall include minimum standards as required by the IBEW and NECA. Should any of the required minimum standards fail to comply with federal, state, and/or local laws and regulations, they shall be modified by the local union and chapter to meet the requirements of those laws and regulations.

ARTICLE XV
CODE OF EXCELLENCE

SECTION 15.01 The parties of this Agreement recognize that to meet the needs of our customers both employer and employee must meet the highest level of performance, professionalism, and productivity. The Code of Excellence has proven to be a vital element in meeting the customer's expectations. Therefore each IBEW local union and NECA chapter shall implement a Code of Excellence Program. The program shall include minimum standards as designed by the IBEW and NECA.

SEPARABILITY CLAUSE

Should any provision of this Agreement be declared illegal by any court of competent jurisdiction, such provisions shall immediately become null and void, leaving the remainder of the Agreement in full force and effect and the parties shall, thereupon, seek to negotiate substitute provisions which are in conformity with the applicable laws.

GENDER LANGUAGE

Whenever the male gender is used in this Agreement, the female gender is also intended.

IN WITNESS WHEREOF, the parties hereto, have executed this Agreement this 18th day of May, 2012.

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW®

SIGNED:

FINGER LAKES NY CHAPTER NECA, INC.

BY Marilyn M. Oppedisano

TITLE Chapter Manager

DATE _____

SIGNED:

LOCAL UNION 840, IBEW

BY Michael L. Davis

TITLE Business Manager

DATE _____

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Ex. GC-4

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LETTER OF ASSENT - A

In signing this letter of assent, the undersigned firm does hereby authorize¹ _____ as its collective bargaining representative for all matters contained in or pertaining to the current and any subsequent approved² _____ labor agreement between the _____ and Local Union³ _____, IBEW.

In doing so, the undersigned firm agrees to comply with, and be bound by, all of the provisions contained in said current and subsequent approved labor agreements. This authorization, in compliance with the current approved labor agreement, shall become effective on the⁴ _____ day of _____, _____.

It shall remain in effect until terminated by the undersigned employer giving written notice to the _____ and to the Local Union at least one hundred fifty (150) days prior to the then current anniversary date of the applicable approved labor agreement.

The Employer agrees that if a majority of its employees authorize the Local Union to represent them in collective bargaining, the Employer will recognize the Local Union as the NLRA Section 9(a) collective bargaining agent for all employees performing electrical construction work within the jurisdiction of the Local Union on all present and future jobsites.

In accordance with Orders issued by the United States District Court for the District of Maryland on October 10, 1980, in Civil Action HM-77-1302, if the undersigned employer is not a member of the National Electrical Contractors Association, this letter of assent shall not bind the parties to any provision in the above-mentioned agreement requiring payment into the National Electrical Industry Fund, unless the above Orders of Court shall be stayed, reversed on appeal, or otherwise nullified.

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW

⁵ Name of Firm _____

Street Address/P.O. Box Number _____

City, State (Abbr.) Zip Code _____

⁶ Federal Employer Identification No.: _____

SIGNED FOR THE EMPLOYER

BY⁷ _____
(original signature)

NAME⁸ _____

TITLE/DATE _____

SIGNED FOR THE UNION³ _____, IBEW

BY⁷ _____
(original signature)

NAME⁸ _____

TITLE/DATE _____

INSTRUCTIONS (All items must be completed in order for assent to be processed)

¹ NAME OF CHAPTER OR ASSOCIATION

Insert full name of NECA Chapter or Contractors Association involved.

² TYPE OF AGREEMENT

Insert type of agreement. Example: Inside, Outside Utility, Outside Commercial, Outside Telephone, Residential, Motor Shop, Sign, Tree Trimming, etc. The Local Union must obtain a separate assent to each agreement the employer is assenting to.

³ LOCAL UNION

Insert Local Union Number.

⁴ EFFECTIVE DATE

Insert date that the assent for this employer becomes effective. Do not use agreement date unless that is to be the effective date of this Assent.

⁵ EMPLOYER'S NAME & ADDRESS

Print or type Company name & address.

⁶ FEDERAL EMPLOYER IDENTIFICATION NO.

Insert the identification number which must appear on all forms filed by the employer with the Internal Revenue Service.

⁷ SIGNATURES

⁸ SIGNER'S NAME

Print or type the name of the person signing the Letter of Assent. International Office copy must contain actual signatures-not reproduced-of a Company representative as well as a Local Union officer.

A MINIMUM OF FIVE COPIES OF THE JOINT SIGNED ASSENTS MUST BE SENT TO THE INTERNATIONAL OFFICE FOR PROCESSING. AFTER APPROVAL, THE INTERNATIONAL OFFICE WILL RETAIN ONE COPY FOR OUR FILES, FORWARD ONE COPY TO THE IBEW DISTRICT VICE PRESIDENT AND RETURN THREE COPIES TO THE LOCAL UNION OFFICE. THE LOCAL UNION SHALL RETAIN ONE COPY FOR THEIR FILES AND PROVIDE ONE COPY TO THE SIGNATORY EMPLOYER AND ONE COPY TO THE LOCAL NECA CHAPTER.

Ex. GC-5

LETTER OF ASSENT C

This document shall be used only for employers becoming signatory for the first time or for first time contractors seeking affiliation as a direct result of a Membership Development campaign.

This is to certify that the undersigned employer has examined a copy of the current ¹ _____ labor agreement between

² _____ and Local Union ³ _____, IBEW.

It is understood that the signing of this letter of assent shall be as binding on the undersigned employer as though he had signed the above referred to agreement, including any amendments thereto, and any subsequent agreements.

This letter of assent shall become effective for the undersigned employer on the ⁴ _____ day of _____, _____ and shall remain in effect unless and until terminated as provided in the following paragraphs.

1. This letter of assent cannot be terminated within the first 180 days from its effective date, above.

2. After the first 180 days and within the first twelve (12) months from the effective date of this letter of assent, the undersigned employer may terminate this letter of assent and the collective bargaining agreement by giving written notice to ² _____ and the local union at least thirty (30) days prior to the selected termination date. If such notice is given but the undersigned employer has an outstanding debt to the local union or to any of the funds specified in the collective bargaining agreement on the selected date, the termination shall become effective when, following the selected termination date, payment in full of any outstanding debt to the local union or to any of the funds specified in the collective bargaining agreement has been made. Such payment of outstanding debt shall include those payments otherwise due as a result of this extension of the agreement caused by the outstanding debt.

3. After the first twelve (12) months from the effective date of this letter of assent, the undersigned employer shall be bound to the then current agreement between the parties until its stated termination date, as well as to all subsequent amendments and renewals. If the undersigned employer desires to terminate this letter of assent and does NOT intend to comply with and be bound by all of the provisions in any subsequent agreements between ² _____ and Local Union ³ _____, IBEW, he shall so notify ² _____ and the Local Union in writing at least one hundred (100) days prior to the termination date of the then current agreement.

After the twelve (12) months from the effective date of this letter of assent, the Employer agrees that if a majority of its employees authorizes the Local Union to represent them in collective bargaining, the Employer will

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW

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²NAME OF CHAPTER OR ASSOCIATION

Insert full name of NECA Chapter or Contractors Association involved.

³LOCAL UNION

Insert Local Union Number.

⁴EFFECTIVE DATE

Insert date that the assent for this employer becomes effective. Do not use agreement date unless that is to be the effective date of this Assent.

⁵EMPLOYER'S NAME AND ADDRESS

Print of type Company name & address.

⁶FEDERAL EMPLOYER IDENTIFICATION NO.

Insert the identification number which must appear on all forms filed by the employer with the Internal Revenue Service.

⁷SIGNATURES

⁸SIGNER'S NAME

Print or type the name of the persons signing the Letter of Assent. International Office copy must contain actual signatures - not reproduced - of a Company representative as well as a Local Union officer.

A MINIMUM OF FIVE COPIES OF THE JOINT SIGNED ASSENTS MUST BE SENT TO THE INTERNATIONAL OFFICE FOR PROCESSING. AFTER APPROVAL, THE INTERNATIONAL OFFICE WILL RETAIN ONE COPY FOR OUR FILES, FORWARD ONE COPY TO THE IBEW DISTRICT VICE PRESIDENT AND RETURN THREE COPIES TO THE LOCAL UNION OFFICE. THE LOCAL UNION SHALL RETAIN ONE COPY FOR THEIR FILES AND PROVIDE ONE COPY TO THE SIGNATORY EMPLOYER AND ONE COPY TO THE LOCAL NECA CHAPTER.

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Ex. GC-6

LETTER OF ASSENT C

This document shall be used only for employers becoming signatory for the first time or for first time contractors seeking affiliation as a direct result of a Membership Development campaign.

This is to certify that the undersigned employer has examined a copy of the current ¹ Inside Construction labor agreement between

² Finger Lakes Chapt. NECA and Local Union ³ 840, IBEW.

It is understood that the signing of this letter of assent shall be as binding on the undersigned employer as though he had signed the above referred to agreement, including any amendments thereto, and any subsequent agreements.

This letter of assent shall become effective for the undersigned employer on the ⁴ 24th day of February, 2011 and shall remain in effect unless and until terminated as provided in the following paragraphs.

1. This letter of assent cannot be terminated within the first 180 days from its effective date, above.

2. After the first 180 days and within the first twelve (12) months from the effective date of this letter of assent, the undersigned employer may terminate this letter of assent and the collective bargaining agreement by giving written notice to ² Finger Lakes Chapt. NECA and the local union at least thirty (30) days prior to the selected termination date. If such notice is given but the undersigned employer has an outstanding debt to the local union or to any of the funds specified in the collective bargaining agreement on the selected date, the termination shall become effective when, following the selected termination date, payment in full of any outstanding debt to the local union or to any of the funds specified in the collective bargaining agreement has been made. Such payment of outstanding debt shall include those payments otherwise due as a result of this extension of the agreement caused by the outstanding debt.

3. After the first twelve (12) months from the effective date of this letter of assent, the undersigned employer shall be bound to the then current agreement between the parties until its stated termination date, as well as to all subsequent amendments and renewals. If the undersigned employer desires to terminate this letter of assent and does NOT intend to comply with and be bound by all of the provisions in any subsequent agreements between ² Finger Lakes Chapt. NECA and Local Union ³ 840, IBEW, he shall so notify ² Finger Lakes Chapt. NECA and the Local Union in writing at least one hundred (100) days prior to the termination date of the then current agreement.

After the twelve (12) months from the effective date of this letter of assent, the Employer agrees that if a majority of its employees authorizes the Local Union to represent them in collective bargaining, the Employer will

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recognize the Local Union as the NLRA Section 9(a) collective bargaining agent for all employees performing electrical construction work within the jurisdiction of the Local Union on all present and future jobsites.

In accordance with Orders issued by the United States District Court of the District of Maryland on October 10, 1980, in Civil Action HM-77-1302, if the undersigned employer is not a member of the National Electrical Contractors Association, this letter of assent shall not bind the parties to any provision in the above-mentioned agreements requiring payment into the National Electrical Industry Fund, unless the above Orders of Court shall be stayed, reversed on appeal, or otherwise nullified.

SUBJECT TO THE APPROVAL OF THE INTERNATIONAL PRESIDENT, IBEW

Newark Electric

⁵ Name of Firm

126 Harrison St.

Street Address/P. O. Box Number

Newark, NY 14513

City, State (Abbr.), Zip Code

⁶ Federal Employer Identification No. 16-1127802

SIGNED FOR THE EMPLOYER

BY *James R. Colacino*
(original signature)

NAME ⁸ James R. Colacino

TITLE CEO

DATE 2/24/2011

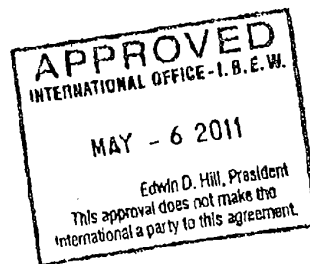
SIGNED FOR THE UNION ³ 840 IBEW

BY *Clark D. Culver*
(original signature)

NAME ⁸ Clark D. Culver

TITLE Business Manager

DATE 2/24/2011



INSTRUCTIONS: All items must be completed in order for assent to be processed.

TYPE OF AGREEMENT:

Insert type of agreement. Example: Inside, Outside Utility, Outside Commercial, Outside Telephone, Residential, Motor Shop, Sign, Tree Trimming, etc. The Local Union must obtain a separate assent to each agreement the employer is assenting to.

²NAME OF CHAPTER OR ASSOCIATION

Insert full name of NECA Chapter or Contractors Association involved.

³LOCAL UNION

Insert Local Union Number.

⁴EFFECTIVE DATE

Insert date that the assent for this employer becomes effective. Do not use agreement date unless that is to be the effective date of this Assent.

⁵EMPLOYER'S NAME AND ADDRESS

Print or type Company name & address.

⁶FEDERAL EMPLOYER IDENTIFICATION NO.

Insert the identification number which must appear on all forms filed by the employer with the Internal Revenue Service.

⁷SIGNATURES

⁸SIGNER'S NAME

Print or type the name of the persons signing the Letter of Assent. International Office copy must contain actual signatures - not reproduced - of a Company representative as well as a Local Union officer.

A MINIMUM OF FIVE COPIES OF THE JOINT SIGNED ASSENT'S MUST BE SENT TO THE INTERNATIONAL OFFICE FOR PROCESSING. AFTER APPROVAL, THE INTERNATIONAL OFFICE WILL RETAIN ONE COPY FOR OUR FILES, FORWARD ONE COPY TO THE IBEW DISTRICT VICE PRESIDENT AND RETURN THREE COPIES TO THE LOCAL UNION OFFICE. THE LOCAL UNION SHALL RETAIN ONE COPY FOR THEIR FILES AND PROVIDE ONE COPY TO THE SIGNATORY EMPLOYER AND ONE COPY TO THE LOCAL NECA CHAPTER.

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Ex. GC-7

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NEWARK ELECTRIC

THE POWER AUTHORITY

James R Colacino
President / CEO
126 Harrison Street
Newark, New York 14513
315-331-0414 Voice
315-331-1076 Fax
315-573-4066 Cell
jcolacino@newarkelectric.com



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"Quality is like buying oats.
If you want nice, clean, fresh oats,
you must pay a fair price.
However, if you can be satisfied with
oats that have already been through the horse,
that comes a little cheaper."